

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

3.1 INTRODUCTION

This Final Environmental Impact Report (FEIR) was prepared in accordance with the California Environmental Quality Act (CEQA), and CEQA Guidelines (Section 15132). Rancho Cordova is the lead agency for the environmental review of the Preserve at Sunridge (project) and has the principal responsibility for approving the project. This FEIR assesses the expected environmental impacts resulting from approval of the project and responds to comments received on the Draft EIR.

3.2 LIST OF COMMENTORS

The following individuals and representatives of organizations and agencies submitted written comments on the Draft EIR.

Letter	Individual or Signatory	Affiliation	Date
A	Andrew Stresser	Caltrans	12/2/05
B	Kenneth D. Sanchez	US Fish and Wildlife Service	10/27/05
C	Scott Fujikawa	County of Sacramento, Municipal Services Agency	11/15/05
D	Matthew G. Darrow	County of Sacramento, Department of Transportation	11/29/05
E	Katherine Mrowka	State Water Resources Control Board	11/30/05
F	Katherine Eastham	Caltrans	12/2/05
G	Karen Schwinn	U.S. Environmental Protection Agency	12/5/05
H	Jeane Borkenhagen	Sacramento Metropolitan Air Quality Management District	12/21/05
I	Justen Cole	Sacramento County Water Agency	12/22/05
J	Alexander McDonald	California Regional Water Quality Control Board	11/15/05
1	Carol W. Witham	California Native Plant Society	10/31/05
2	Carol W. Witham	California Native Plant Society	12/1/05
3	Alta Tura	Urban Creeks Council of Sacramento	12/5/05
4	James P. Pacht, Esq.	Legal Counsel for Friends of the Swainson's Hawk	12/5/05

3.3 COMMENTS AND RESPONSES

REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

CEQA Guidelines Section 15088 requires that lead agencies evaluate all comments on environmental issues received on the Draft EIR and prepare a written response. The written response must address the significant environmental issue raised and must provide a detailed response, especially when specific comments or suggestions (e.g., additional mitigation measures) are not accepted. In addition, there must be a good faith and reasoned analysis in the written response. However, lead agencies need only respond to significant environmental issues associated with the project and do not need to provide all the information requested by Commentors, as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines 15204).

CEQA Guidelines 15204 recommends that Commentors provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or

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mitigated. CEQA Guidelines Section 15204 also notes that Commentors should provide an explanation and evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence supporting such a conclusion.

CEQA Guidelines Section 15088 also recommends that where response to comments results in revisions to the Draft EIR, that those revisions be incorporated as a revision to the Draft EIR, or as a separate section of the Final EIR.

RESPONSES TO COMMENT LETTERS

Written comments on the Draft EIR are reproduced on the following pages, along with responses to those comments. To assist in referencing comments and responses, the following coding system is used:

- Public agency comment letters are coded by letters and each issue raised in the comment letter is assigned a number (e.g., Comment Letter A, comment 1: A-1).
- Individual and interest group comment letters are coded by numbers and each issue raised in the comment letter is assigned a number (e.g., Comment Letter 1, comment 1: 1-1).

Where changes to the Draft EIR text result from responding to comments, those changes are included in the response and demarcated with revision marks (underline for new text, ~~strike-out~~ for deleted text). Comment-initiated text revisions to the Draft EIR and minor staff initiated changes are also provided and are demarcated with revision marks in Section 4.0 (Errata) of this Final EIR.

MASTER RESPONSES

Master Responses are prepared when letters and written comments received on the Draft EIR include common issue areas associated with the project and analysis contained in the Draft EIR.

Master Response - Biological Resource Analysis

Several Commentors expressed concern over the project's biological resource related impacts. City staff has prepared master responses for common comments received for this issue area. This Master Response was developed to address the following issues related to Biological Resources:

- Inconsistency with the "Conceptual Level Strategy" for wetlands mitigation in the Sunrise Douglas Community Plan area
- Direct and indirect impacts to endangered, threatened, or rare species
- Impacts associated with the realignment of Morrison Creek

Inconsistency with the Conceptual Level Strategy

Several of the comments submitted noted that the project was not consistent with the Conceptual Level Strategy, which was developed by representatives of the United States Fish

and Wildlife Service (USFWS), United States Environmental Protection Agency (US EPA), and the United States Army Corps of Engineers (USACE) for avoiding, minimizing, and preserving aquatic resource habitat in the Sunrise Douglas Community Plan. Commentors noted that the intended result of the effort was to achieve reasonable protection and conservation of federally threatened and endangered species under the Endangered Species Act, while taking a regional approach to avoidance and minimization of impacts of the waters of the U.S., including wetlands and vernal pools, in accordance with Section 404 (b)(1) guidelines under the Clean Water Act. The Draft EIR notes that the project is not consistent with the Conceptual Level Strategy (see **Impact 4.9.8**, "Conflict with Adopted Habitat Conservation Plan and Natural Community Conservation Plan", page 4.9-39). To the best knowledge of the City, and as indicated in the Draft EIR, the Conceptual Level Strategy does not represent a formalized agreement, was not signed by any agency with permitting authority, and was not adopted by the City of Rancho Cordova. The strategy, then, is not a legally binding regulatory requirement of any kind. Rather, the City understands that that Conceptual Level Strategy is intended as a planning tool for regulatory agencies and potential applicants but has no official legal or regulatory bearing on the project, and provides no guarantee of agency authorization. The Draft EIR fully discloses the project's inconsistency with the Conceptual Level Strategy in **Impact 4.9.8** and identifies the scenario in which the project complies with the strategy as an alternative to the project (Alternative 3). Generally, the comments regarding the Conceptual Level Strategy do not address the adequacy of the environmental document; however, these comments will be forwarded to the Rancho Cordova City Council for further consideration and action.

Direct and Indirect Impacts to Endangered, Threatened, or Rare Species

Several Commentors stated that the DEIR was deficient for allegedly failing to adequately identify and mitigate biological resource impacts. Specifically, several Commentors noted that the DIER was inadequate in evaluating direct and indirect impacts to endangered, threatened, or rare species. As indicated on page 4.9-24, the Draft EIR fully discloses the potential direct effects to:

- Species listed or proposed for listing as Threatened or Endangered under ESA or CESA.
- Species considered as candidates for listing as Threatened or Endangered under ESA or CESA.
- Plants listed as Endangered or Rare under the California Native Plant Protection Act.
- Plants on the California Native Plant Society (CNPS) List 1B (plants, rare, threatened, or endangered in California and elsewhere) or List 2 (plants rare, threatened or endangered in California but more common elsewhere).

Draft EIR pages 4.9-2 through 4.9-15 describe the habitat conditions on the Preserve at Sunridge site and **Table 4.9-1** provides the acreages and types of waters of the U.S. that are on the proposed project site. **Table 4.9-2** illustrates the vernal pool plant species observed on the site, and **Table 4.9-3** includes the special-status plant and animal species potentially occurring on the site, the type of habitat, and the probability of occurrence. As indicated in the discussion of the methodology used in assessing impacts to these species and habitats (page 4.9-19), the biological evaluation in this EIR included use of the California Department of Fish and Game Natural Diversity Data Base (CNDDDB, 2005), and review of several databases and related literature. In addition to literature and database review, several biological studies were conducted on the project site from 1996 through 2005 during periods when the special-status

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animal and plant species were most likely present. To ensure the project site was adequately evaluated for potentially occurring special-status plant species, field surveys were conducted on six separate occasions (April through July, 2002).

The Draft EIR pages 4.9-24 through 4.9-33 (see **Impact 4.9.1**) fully discloses the direct impacts to these species and, as indicated, implementation of mitigation measures MM 4.9.1a and 4.9.1b would reduce project's direct impacts to endangered, threatened, or rare species to less than significant. Additionally, the Draft EIR discusses the indirect effects to endangered, threatened, or rare species (see **Impact 4.9.2**, pages 4.9-33 through 4.9-35) and identifies mitigation measures **MM 4.9.2a** and **MM 4.9.2b** to reduce the impacts to less than significant levels. Several Commentors noted that the biological surveys were not included in the Draft EIR, and therefore did not allow for adequate public review. All the biological surveys and other material referenced in the DEIR, however, are available for public review at the City of Rancho Cordova City Hall (new address: 2729 Prospect Park Drive in Rancho Cordova, CA 95670) as noted in the Notice of Availability. Thus, the City did not violate CEQA by failing to include the resources within the bound EIR.

The Draft EIR's conclusions relating to biological resources are consistent with CEQA and the CEQA Guidelines. CEQA Guidelines Section 15148 encourages that EIRs not be excessive in size due to the inclusion of technical information and that such information be cited rather than included in the text of EIRs. (See also CEQA Guidelines, §§ 15141 (" [t]he text of draft EIRs should normally be less than 150 pages"), 15147 (" [p]lacement of highly technical and specialized analysis and data in the body of an EIR should be avoided").) Further, CEQA Guidelines Section 15087(c)(5) (Public Review of Draft EIR) states, *"The address where copies of the EIR and all documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency's normal working hours."* Given the size and volume of technical materials used in preparing the Draft EIR, the project applicant's technical studies were referenced and summarized in the DEIR text rather than provided within the Draft EIR. The biological resources conclusions in the Draft EIR are based on several field surveys, verified wetland delineations, special status plant reports, the City of Rancho Cordova Biological Resources Report, review of commonly used databases, and expert opinion and documentation to ensure full disclosure of the project's direct and indirect effects endangered, threatened, or rare species.

Impacts from the Realignment of Morrison Creek

The DEIR fully discusses and discloses adverse impacts to this resource (see Impact 4.9.5 "Loss of Jurisdictional Waters" page 4.9-36, **Impact 4.9.6** "Effect of a Movement Corridor" page 4.9-38, and **Impact 4.7.2** "Surface Water Quality" page 4.7-30) and proposes mitigation to reduce the impacts to less than significant, where feasible. It is important to note that Morrison Creek has been substantially modified downstream in the approved Anatolia developments and further downstream by various mining activities and operations. The environmental effects of these modifications were addressed in previously adopted environmental documents (i.e., a Mitigated Negative Declaration for Anatolia I and II), which is available for public review at the City of Rancho Cordova City Hall, and the Sunrise Douglas Community Plan/SunRidge Specific Plan EIR, which is available for public review at City Hall as well as at the Sacramento County Department of Environmental Review and Assessment at 827 7th Street, Sacramento CA 95814. As discussed in the Draft EIR (see **Impact 4.9.5**, page 4.9-36) the jurisdictional waters of the U.S. on the project site provide a variety of functions, including seasonal wetlands habitats (depressions, vernal pool, and riverine) for vernal pool fairy and tadpole shrimp and wildlife species that utilize this habitat for foraging and as a water source.

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The Draft EIR also describes in detail how the aquatic features on the project site operate and provide a variety of physical functions, as the on-site seasonal wetlands capture and detain some of the peak surface flows during rain events. The Draft EIR also identifies the project-related loss of 15.65 acres of waters of the U.S. and their associated functions as a significant impact to the resource (see page 4.9-36). Additionally, as discussed in **Impact 4.9.6**, the ephemeral drainage on the project site disperses vernal pool tadpole shrimp throughout the landscape. This movement allows for the species to exploit new habitat and provides a mechanism for genetic exchange of material. Genetic exchange of material is an important element of population health. As discussed on page 4.9-38 of the Draft EIR, the project's engineered drainage will not provide an opportunity for vernal pool tadpole shrimp to move outside the channel, there is no feasible mitigation other than redesigning the proposed project to keep Morrison Creek intact, and this is a significant and unavoidable impact.

The SDCP/SRSP EIR addressed drainage, surface water quality, and potential water habitat-related impacts in terms of stormwater runoff, erosion, flooding, and surface and groundwater quality degradation. The SDCP/SRSP FEIR concluded that development in the SDCP area has the potential to impact surface water quality due to entrained sediments and urban pollutants in project runoff. However, compliance with State and Sacramento County grading, erosion and stormwater quality control requirements, mandatory compliance with the City's NPDES permit, and implementation of the proposed water quality improvements described in the Final Master Drainage Study (MDS) would reduce the project's surface water quality impacts to a less than significant level. The Draft EIR states that implementation of mitigation measures **MM 4.7.2a** through **MM 4.7.2d**, which are based on previously adopted SDCP/SRSP EIR mitigation measures, would reduce the project's surface water quality impacts to less than significant. The Draft EIR also provides substantial evidence to support the feasibility of the proposed mitigation (see page 4.7-33) - "Several technical studies have been conducted regarding water quality control feature impacts on groundwater (e.g., City of Fresno Nationwide Urban Runoff Project and California Storm Water Best Management Practices Handbook prepared by the Stormwater Quality Task Force) and surface water (e.g., Cumulative Water Quality Analysis Report for the Lahontan Development 1996-2002 [Huffman and Carpenter, 2003]). These studies have identified that water quality control features such as revegetation, erosion control measures, detention and infiltration basins, which are included in mitigation measures **MM 4.7.2a** through **MM 4.7.2d**, have been successful in controlling water quality and avoiding water quality impacts (metals and organic compounds associated with stormwater are typically lost within the first few feet of the soil of the retention basins associated with groundwater). Specific technical studies associated with the Lahontan Development (residential and golf course development) in Placer County demonstrated that the use of a variety BMPs, similar to those identified in mitigation measure **MM 4.7.2a** through **MM 4.7.2d**, have been able to maintain surface water quality conditions in adjacent receiving waters (Martis Creek)."

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Letter A

From: Andrew Stresser [mailto:andrew_stresser@dot.ca.gov]
Sent: Wed 10/19/2005 2:49 PM
To: Preserve at. Sunridge
Subject: Assessor Parcel numbers

I'd like to request the assessor parcel number for the Preserve at Sunridge. Thank you for your help. | A-1

LETTER A

ANDREW STRESSER, CITY OF RANCHO CORDOVA

RESPONSE A-1:

The Commentor requested the Assessor Parcel Number (APN) for the project site. There is one APN associated with the project (067-0040-008). The parcel number was forwarded to the Commentor via email on October 24, 2005.

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Letter B



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-06-TA-0085

OCT 27 2005

City of Rancho Cordova
Planning Department
Hilary Anderson
3121 Gold Canal Drive
Rancho Cordova, California 95670

Subject: Comment on the Draft Environmental Impact Report for The Preserve at Sunridge Project, Sacramento County, California

Dear Ms. Anderson:

This responds to your October 18, 2005, Notice of Availability of a Draft Environmental Impact Report for the Preserve at Sunridge project. On October 4, 2004, this office provided comments to you on your September 10, 2004, Notice of Preparation (NOP) of an Environmental Impact Statement for this same proposed development project then known as the Sunridge Village Project (Fish and Wildlife Service file number 1-1-05-TA-0028). The U.S. Fish and Wildlife Service (Service) again issued comments on your January 26, 2005, NOP for this same proposed development (Service file number 1-1-05-TA-0756). You have solicited comments on the October, 2005, *The Preserve at Sunridge: Draft Environmental Impact Report, Volumes I and II*, SCH#2004092051, prepared by the City of Rancho Cordova.

B-1

After review of the information you have provided we believe that our October 4, 2004, letter adequately addresses our concerns for this current proposal. Relative to the Endangered Species Act and our responsibilities for vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), and two endemic plants, slender Orcutt grass (*Orcuttia tenuis*), and Sacramento Orcutt grass (*Orcuttia viscida*), we cannot discern any changes to the proposal which would reduce impacts to these species, thus our previous comments are pertinent.

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Hilary Anderson

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Furthermore, as stated on page 4.9-39 of the document (Volume I), the proposed project "is not consistent with the conceptual strategy", claiming that "the conceptual strategy does not provide a formalized agreement, was not signed by any agency with permitting authority, and was not adopted by the City of Rancho Cordova" and "therefore carries no legal or regulatory status." The U.S. Army Corps of Engineers, an agency involved in the permitting of the proposed project, however, is signatory to the Conceptual Strategy.

B-2

If you have any questions regarding this response please contact me at (916) 414-6671.

Sincerely,



Kenneth D. Sanchez
Assistant Field Supervisor



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-05-TA-0756

22 February 2005

City of Rancho Cordova
Planning Department
Hilary Anderson
3121 Gold Canal Drive
Rancho Cordova, California 95670

This responds to your January 26, 2005, Notice of Preparation (NOP) of an Environmental Impact Report for the Preserve at Sunridge project. On October 4, 2004, this office provided comments to you on your previous NOP for this same proposed development project then known as the Sunridge Village Project (Fish and Wildlife Service File # 1-1-05-TA-0028). You have again solicited comments because of "...new information describing the proposal and its potential environmental effects."

After review of the information you have provided we believe that our previous letter adequately addresses our concerns for this current proposal. Relative to the Endangered Species Act and our responsibilities for vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), and two endemic plants, slender Orcutt grass (*Orcuttia tenuis*), and Sacramento Orcutt grass (*Orcuttia viscida*), we cannot discern any changes to the proposal which would reduce impacts to these species, thus our previous comments are pertinent.

B-3

If you have any questions regarding this response please contact me at (916) 414-6671.

Sincerely,

Kenneth D. Sanchez
Assistant Field Supervisor

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IN AMERICA 



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-05-TA-0028

OCT 14 2006

City of Rancho Cordova
Hilary Anderson
3121 Canal Drive
Ranch Cordova, CA 95670

This provides U.S Fish and Wildlife Service (Service) comments on your September 10, 2004, Notice of Preparation (NOP) of the Environmental Impact Report (EIR) for the Sunridge Village Project. Our comments that follow are intended to assist you in your review of the proposal, and will not take the place of any formal comments that may be required under provisions of the Fish and Wildlife Coordination Act or the Endangered Species Act of 1973 ((16 U.S.C. 1531 *et seq.*) (Act).

When reviewing proposed projects, the Service generally does not object to projects meeting the following criteria:

1. They are ecologically sound;
2. The least environmentally damaging reasonable alternative is selected;
3. Every reasonable effort is made to avoid or minimize damage or loss of fish and wildlife resources and uses; and
4. All recommended means and measures have been adopted, with guaranteed implementation to satisfactorily compensate for unavoidable damage or loss consistent with the appropriate mitigation goal.

B-4

The Service may recommend the "no project" alternative for those projects which do not meet all of the above criteria, and where there is likely to be a significant fish and wildlife resource loss.

It is the Regional policy of the Service to ensure no net loss of wetland acreage or value, whichever is greater. To offset unavoidable resource losses for acceptable projects, the Service recommends that appropriate mitigation be provided. The Council on Environmental Quality regulations for implementing the National Environmental Policy Act defines mitigation to include: (1) avoiding the impact; (2) minimizing the impact; (3) rectifying the impact; (4) reducing or eliminating the impact over time; and (5) compensating for impacts. The Service

B-5



Hilary Anderson

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supports and adopts this definition of mitigation and considers the specific elements to represent the desirable sequence of steps in the mitigation planning process. Accordingly, we maintain that the best way to mitigate for adverse biological impacts is to avoid them altogether.

B-5 cont.

Over the past 18 months the Service has met with the Department of Army - Corps of Engineers (Corps), the Environmental Protection Agency (EPA), the California Department of Fish and Game, and representatives of the City of Rancho Cordova, and the landowners and developers involved in the Sunrise Douglas Community Planning Area (SDCPA). The Sunridge Village project area is within the SDCPA. Our discussions focused on conservation strategies for endangered species and wetlands within the SDCPA and permitting by the three Federal agencies (Corps, EPA, and Service).

The SDCPA includes the highest density of high quality vernal pool wetlands that occur on Laguna formation soils left in the state. Laguna formation wetlands are important due to the high density of federally listed species that occur on them including the vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), and two endemic plants, slender Orcutt grass (*Orcuttia tenuis*), and Sacramento Orcutt grass (*Orcuttia viscida*). Over 33% of all known occurrences of the tadpole shrimp occur in the south county area and we estimate that up to 20% of all known occurrences would be impacted by development in the SDCPA. Slender orcutt grass occurs on only 3 known sites in the county, all in the SDCPA, and the nearest known occurrence is over 100 miles away. Sacramento Orcutt grass is found only in Sacramento County and 5 of 8 known sites (70%) occur in the SDCPA. Cumulatively, the projects proposed would result in the loss of over 70% of the vernal pool wetlands in the SDSPA. Conservation/minimization measures currently proposed by some the project proponents are insufficient to assure long term viability of vernal pool dependent species.

B-6

The result of these meetings and discussions is the agreement by the three Federal agencies (Corps, EPA and Service) to implement strategies for conserving these resources and provide a framework for development proposals. In addition, our strategy would provide some conceptual guidelines for permitting. The following is taken from the document we developed "A Conceptual-Level Strategy for Avoiding, Minimizing, & Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area" (enclosed); this document and the accompanying planning map developed by the three agencies is provided to you for use in your planning process:

"In March through May 2004, representatives of the US Fish and Wildlife Service, US Environmental Protection Agency, and the US Army Corps Engineers (Agencies) met to formulate a conceptual-level strategy for avoiding, minimizing, and preserving aquatic resource habitat in the Sunrise-Douglas Community Plan Area (SDCPA). The intended result of this effort was to achieve reasonable protection and conservation of federally threatened and endangered species under the Endangered Species Act, while taking a regional approach to avoidance and minimization of impacts to waters of the US, including wetlands, in accordance with Section 404 (b)(1) guidelines under the Clean Water Act. The strategy also endeavors to

Hilary Anderson

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ensure a viable South Sacramento County Habitat Conservation Plan (HCP) can be developed, given that a large proportion of vernal pool habitat under consideration by the HCP planners is within the SDCPA.

The conceptual-level strategy is represented by preserve areas shown on the map titled Sunrise-Douglas Community Plan Area Conceptual-Level Strategy for Aquatic Resource Protection dated March 2004 (see attached). To meet the goals of ESA and the Clean Water Act, the Agencies arrived at the boundaries of the "Preserve Areas" based on best professional judgment and a limited amount of information regarding regional and site-specific biology and hydrogeomorphology (such as wetland delineations, species accounts, and environmental impact reports), while recognizing that development is planned in the area. Of particular focus is the preservation of vernal pool complexes and corridors for Morrison Creek and Laguna Creek. The mapped boundaries are the smallest that would be acceptable to the Agencies and are predicated on ten principles and standards that would be followed by developers and planners as each element of the overall development proceeds.

The conceptual level strategy should be used by developers and planners to design and plan projects in the SDCPA. The Agencies will use the strategy to aid in the review of proposed development and evaluate the probable individual and cumulative effects on aquatic resources and sensitive species.

B-6 cont.

The Agencies anticipate that permit decisions and biological opinions will be completed on a case-by-case basis, using site-specific project and aquatic resource habitat information. Each proposed project would be evaluated on its own merits within the larger context of the SDCPA. Depending on the particular hydrology, habitat features, and development plans for a particular parcel, the conceptual preserve boundaries may need to be adjusted to minimize direct and indirect impacts to aquatic resources. Appropriate compensatory mitigation will be developed following demonstrated avoidance and minimization of project impacts."

Based on our review of the proposal as submitted by the project proponent, the project design for the Sunridge Village is not consistent with our conceptual-level strategy document and the map. The proposal would result in significant impacts to, and loss of, vernal pool tadpole shrimp, vernal pool fairy shrimp, Sacramento and Slender Orcutt grass, and habitats they depend on (grasslands, wetlands and vernal pools). In addition, the proposal would result in the realignment of Morrison Creek for much of its length in the project site. This action will result in significant changes and impacts to the overall hydrology of the area which will, in turn, adversely impact endangered species habitat. We strongly recommend that the Sunridge village project, and all future projects, in the SDCPA be designed consistent with the strategy discussed here.

Hilary Anderson

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If you have questions regarding this response please contact me at (916) 414-6600.

Sincerely,



Kenneth D. Sanchez
Assistant Field Supervisor

cc:

P. Jones EPA-San Francisco, California
M. Jewell Corps-Sacramento, California

**A Conceptual-Level Strategy for
Avoiding, Minimizing, & Preserving Aquatic Resource Habitat
in the Sunrise-Douglas Community Plan Area**

June 2004

In March through May 2004, representatives of the US Fish and Wildlife Service, US Environmental Protection Agency, and the US Army Corps Engineers (Agencies) met to formulate a conceptual-level strategy for avoiding, minimizing, and preserving aquatic resource habitat in the Sunrise-Douglas Community Plan Area (SDCPA). The intended result of this effort was to achieve reasonable protection and conservation of federally threatened and endangered species under the Endangered Species Act, while taking a regional approach to avoidance and minimization of impacts to waters of the US, including wetlands, in accordance with Section 404 (b)(1) guidelines under the Clean Water Act. The strategy also endeavors to ensure a viable South Sacramento County Habitat Conservation Plan (HCP) can be developed, given that a large proportion of vernal pool habitat under consideration by the HCP planners is at risk in the SDCPA.

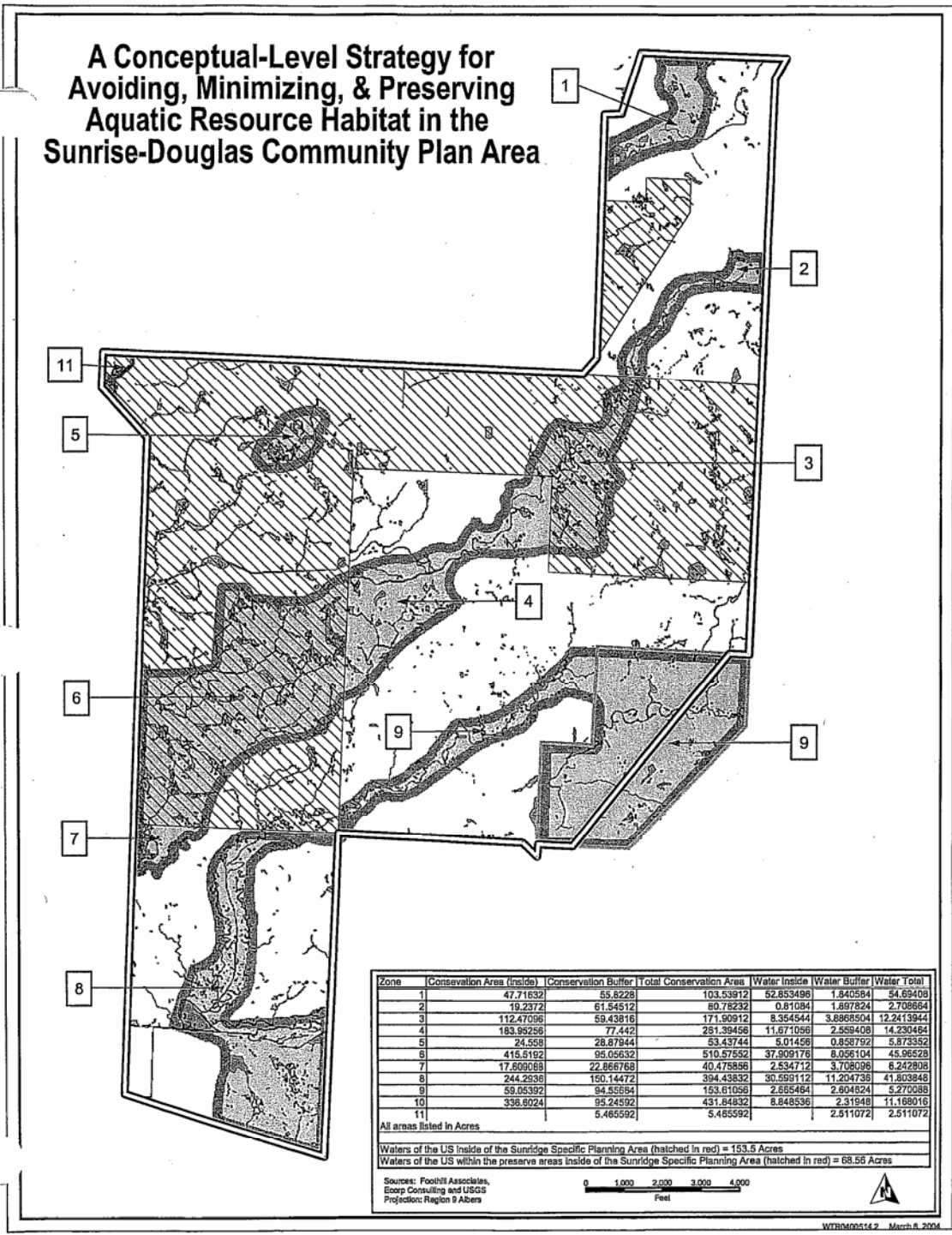
The conceptual-level strategy is represented by preserve areas shown on the map titled Sunrise-Douglas Community Plan Area Conceptual-Level Strategy for Aquatic Resource Protection dated March 2004 (see attached). To meet the goals of ESA and the Clean Water Act, the Agencies arrived at the boundaries of the "Preserve Areas" based on best professional judgment and a limited amount of information regarding regional and site-specific biology and hydro-geomorphology (such as wetland delineations, species accounts, and environmental impact reports), while recognizing that development is planned in the area. Of particular focus is the preservation of vernal pool complexes and corridors for Morrison Creek and Laguna Creek. The mapped boundaries are the smallest that would be acceptable to the Agencies and are predicated on ten principles and standards that would be followed by developers and planners as each element of the overall development proceeds.

The conceptual level strategy should be used by developers and planners to design and plan projects in the SDCPA. The Agencies will use the strategy to aid in the review of proposed development and evaluate the probable individual and cumulative effects on aquatic resources and sensitive species.

The Agencies anticipate that permit decisions and biological opinions will be completed on a case-by-case basis, using site-specific project and aquatic resource habitat information. Each proposed project would be evaluated on its own merits within the larger context of the SDCPA. Depending on the particular hydrology, habitat features, and development plans for a particular parcel, the conceptual preserve boundaries may need to be adjusted to minimize direct and indirect impacts to aquatic resources. Appropriate compensatory mitigation will be developed following demonstrated avoidance and minimization of project impacts.

Strategy Principles and Standards:

1. Maintain natural (existing) watershed integrity and flows to downstream reaches (distribution, frequency and duration), including restricting summer nuisance flows.
2. Maintain corridors and large areas for wildlife and the propagation of flora. Preserve vernal pool hydrology and integrity to benefit listed plants and invertebrates. Establish interconnected conservation areas that are managed in perpetuity and tie into existing local and regional planning efforts. Provide for meaningful conservation of sensitive plant habitats for species integrity and long-term survival.



LETTER B

KENNETH D. SANCHEZ, U.S. DEPARTMENT OF THE INTERIOR

RESPONSE B-1:

The Commentor describes the previous comments submitted on the first and second Notice of Preparation (NOP) for the proposed project in the letter dated October 27, 2005. The Commentor further states that the comments previously submitted during the two NOP processes remain pertinent since the proposal as forwarded in the DEIR does not discernibly reduce impacts to the resources of concern (i.e., vernal pool fairy shrimp, vernal pool tadpole shrimp, slender Orcutt grass and Sacramento Orcutt grass). As stated on page 4.9-24 of the DEIR, the project area does not support slender Orcutt grass and Sacramento Orcutt grass. The commenter does not provide specific evidence to refute the DEIR's conclusion. Section 6.0 of the DEIR presents two alternative project configurations (Alternative 3: Aquatic Resource Habitat Alternative, and Alternative 4: Existing Morrison Creek Alternative), which addresses the Commentor's concern for the other species of issue.

RESPONSE B-2:

The Commentor acknowledges that the project "is not consistent with the conceptual strategy" and adds that the Corps is an agency involved in the permitting of the proposed project, and is a signatory to the conceptual strategy. The Draft EIR notes that the project is not consistent with the Conceptual Level Strategy (see **Impact 4.9.8** "Conflict with Adopted Habitat Conservation Plan and Natural Community Conservation Plan", page 4.9-39). To the best knowledge of the City, and as indicated in the Draft EIR, the Conceptual Level Strategy does not provide formalized agreement, was not signed by any agency with permitting authority and was not adopted by the City of Rancho Cordova. It is the City's understanding that that Conceptual Level Strategy is intended as a planning tool for regulatory agencies and potential applicants but has no official legal or regulatory status, and provides no guarantee of agency authorization. The Draft EIR fully discloses the project's inconsistency with the Conceptual Level Strategy, identifies the strategy as an alternative to the project (Alternative 3). This comment regarding the Conceptual Level Strategy does not address the adequacy of the environmental document; however, this comment will be forwarded to the Rancho Cordova City Council for further consideration and action. The City recognizes that any action by the City Council approving the project will not require either the Corps of Engineers or the Fish and Wildlife Service to reach the same conclusions as the City with respect to the wisdom or desirability, from a policy standpoint, of the conceptual strategy, compared with other planning and policy considerations that might affect the Council's decision. If the City approves the project, the applicants will still need to obtain Clean Water Act permits from the Corps of Engineers, which will consult with the Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as part of its process of considering those permits.

RESPONSE B-3:

The Commentor describes the previous comments submitted on the first and second Notice of Preparation (NOP) for the proposed project in letter

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

dated February 22, 2005. This letter restates the agency's comments on the project's NOPs and does not address the contents or adequacy of the Draft EIR. Please see Response B-1.

RESPONSE B-4:

The comment was submitted regarding the September 10, 2004 NOP, which describes the Agency's criteria when evaluating a project and recommendations when a project is likely to have a significant fish and wildlife resource loss. The Commentor outlines USFWS criteria for reviewing projects and indicates recommending a "no project" for projects not meeting the established criteria. City Staff and decision-makers will consider the comment. The DEIR acknowledges significant and unavoidable impacts to fish and wildlife resources, including those of concern to the USFWS.

RESPONSE B-5:

The Commentor describes the Agency's policy to ensure no net loss of wetland acreage or value, whichever is greater in accordance with NEPA policies and defines mitigation to include: (1) avoid the impact; (2) minimizing the impact; (3) rectifying the impact; (4) reducing or eliminating the impact over time; or (5) compensating for impacts. The Agency maintains that the best way to mitigate for adverse biological impacts is to avoid them altogether. The Commentor describes the USFWS' regional policy of ensuring no net loss of wetland acreage or value to offset unavoidable resource losses and recommends that appropriate mitigation be provided. The USFWS maintains that avoidance is the best mitigation for adverse biological resource impacts. The DEIR is consistent with the presented comment.

Implementation of Mitigation measure **MM 4.9.5a** provides a mitigation performance standard of no-net loss of wetlands acreage or functions for project related impacts to Waters of the US (including wetlands). The DEIR presents information to decision makers and the public about a range of alternatives (including a no project alternative), which would feasibly attain most of the basic objectives of the project, but would avoid or substantially reduce any of the significant environmental effects of the proposed project. In preparing this Final EIR, City staff has no way to predict whether the City Council will approve the project as proposed, will approve one of the alternatives instead, or will deny the project altogether. CEQA makes decision-making bodies the final arbiters of these issues.

RESPONSE B-6:

The Commentor describes the Agency's discussions with the USACE, the US EPA, the California Department of Fish and Game (DFG), landowners, and the development community to coordinate efforts on developing conservation strategies for endangered species and wetlands in the Sunrise Douglas Community Plan area. The Commentor adds that the conservation/minimization measures proposed are insufficient to assure long term viability of vernal pool dependent species. The Commentor provided excerpts from "A Conceptual-Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise Douglas Community Plan Area (Conservation Strategy)". The Commentor further adds that the Preserve at Sunridge project is not consistent with

the Conservation Strategy and the project would result in significant impacts to, and the loss of, vernal tadpole shrimp, vernal pool fairy shrimp, Sacramento and Slender Orcutt grass, and habitats they depend on (grasslands, wetlands, and vernal pools). Additionally, the project, as proposed, would result in the realignment of Morrison Creek throughout the majority of the project site. This action would change and impact the overall hydrology of the area and adversely affect endangered species habitat. The Commentor strongly suggests that the project be designed consistent with the Conservation Strategy. The Commentor is referred to Master Response - Biological Resource Analysis for a further discussion on the Conservation Strategy. The Commentor is also referred to Response to Comment B-2 and Section 4.9 (Biological Resources) in the Draft EIR, specifically to **Impact 4.9.5** and **Impact 4.9.8** and the associated mitigation measures which addresses the project's inconsistencies with the Conceptual Level Strategy

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter C

From: Fujikawa, Scott (MSA) [mailto:fujikawas@SacCounty.NET]
Sent: Tue 11/15/2005 7:59 AM
To: Preserve at, Sunridge
Subject: The Preserve at Sunridge

Hilary,

I have received the Notice of Availability for the Draft EIR on the above mentioned project and downloaded the document off the website. However, to complete the review I need the figures from Section 4 and especially 4.4 Transportation and Circulation which are missing from the electronic version of the Draft EIR. Please let me know if I can get those figures by e-mail or if I can get a hard copy of the Draft EIR. Thank you.

C-1

Scott Fujikawa
County of Sacramento
Municipal Services Agency
Department of Transportation
906 G Street, Suite 510
Sacramento, CA 95814
Phone: (916) 874-5259
FAX: (916) 874-7831

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If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

LETTER C

SCOTT FUJIKAWA, COUNTY OF SACRAMENTO

RESPONSE C-1: The Commentor requested figures of Section 4.4 Transportation and Circulation, which were missing from the electronic version of the DEIR on the City's initial posting of the DEIR on the City's website. A CD with figures was forwarded to the Commentor on 11/16/2005.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter D

Municipal Services Agency

Department of Transportation
Tom Zlotkowski, Director



Terry Schutten, County Executive
Cheryl Creson, Agency Administrator

County of Sacramento

November 29, 2005

Ms. Hilary Anderson
City of Rancho Cordova Planning Department
3121 Gold Canal Drive
Rancho Cordova, CA 95670

DEC 6 2005

PLANNING
CONSULTANTS

SUBJECT: THE PRESERVE AT SUNRIDGE

Dear Ms. Anderson:

The Sacramento County Department of Transportation has reviewed the Draft Environmental Impact Report for The Preserve at Sunridge Project, dated October 2005. We appreciate the opportunity to review this document, and have the following comments:

- Sacramento County has completed its final draft for the Mather Field South Roadway Resizing Study. This may affect assumptions made about several of the roadway segments in the project area. Please coordinate with Paul Lake at 874-8537 for details of this study. D-1
- Folsom Boulevard has been widened to 4 lanes between Sunrise Boulevard and Aerojet Road per the Seven Year Transportation Improvement Plan 2005-2012. Lane configurations and assumptions used for this road in this DEIR may be outdated due to these recent improvements. Please correct. D-2

If you have any questions please call Scott Fujikawa at 874-5259 or me at 874-7052.

Sincerely

Matthew G. Darrow
Senior Civil Engineer

MGD:smf

c: Steve Hong, IFS



"Leading the Way to Greater Mobility"

Design & Planning: 906 G Street, Suite 510, Sacramento, CA 95814 . Phone: 916-874-6291 . Fax: 916-874-7831
Operations & Maintenance: 4100 Traffic Way, Sacramento, CA 95827 . Phone: 916-875-5123 . Fax: 916-875-5363
www.sacdot.com

LETTER D

MATTHEW G. DARROW, COUNTY OF SACRAMENTO, DEPARTMENT OF TRANSPORTATION

RESPONSE D-1 The roadway network for this area of Sacramento County, which was the focus of the Mather Field South Roadway Resizing Study, was based on the Sacramento County General Plan Transportation Plan. The Mather Field South Roadway Resizing Study evaluated several different roadway improvement scenarios that included Eagles Nest Road and different alignments of Excelsior Road around the Independence at Mather development. The recommendations from the resizing study are consistent, relative to the number of lanes, with the Sacramento County General Plan Transportation Plan but differ in the alignment of Excelsior Road. Therefore, if the recommendations were adopted by Sacramento County, the findings of the Preserve at Sunridge Draft EIR would not change, since the alignment of Excelsior Road would not significantly affect travel demand through this area.

RESPONSE D-2 The segment of Folsom Boulevard between Sunrise Boulevard and Aerojet Road was two lanes when the existing conditions data collection occurred and when the Notice of Preparation (NOP) was issued and this improvement was assumed constructed under Interim Year (2014) and Cumulative (Year 2030) conditions. Therefore, the analysis is accurate and no further response is required.

Letter E



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

NOV 30 2005

In Reply Refer
to:334:KDM:266.0

Hilary Anderson
City of Rancho Cordova
3121 Gold Canal Drive
Sacramento, CA 95670

Dear Ms. Anderson:

THE PRESERVE AT SUNRIDGE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR),
SCH # 2004092051, MORRISON CREEK IN SACRAMENTO COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff has reviewed the DEIR for The Preserve at Sunridge.

The development will include 2,415 units of single-family residential development, 288 units of high-density residential, commercial and office, a neighborhood park, an elementary school, detention/water quality basins, an open space/wetland preserve and other amenities. The subdivision will discharge water into detention/water quality basins for the purpose of mitigating subdivision runoff rates and meeting water quality standards of the Basin Plan. The project involves re-alignment of Morrison Creek and re-establishing wetlands that will be destroyed when the original creek bed is filled in. The DEIR indicates that the detention basins and creek re-alignment project have not been designed yet.

E-1

The Division is responsible for the administration of all appropriate water rights in California initiated after 1914; commonly referred to as "post-1914 appropriate rights." The State Water Board regulates diversions from surface and subterranean streams flowing through known and definite channels and a water right permit is required prior to initiating any new use of water. An appropriate water right is required if water will be retained in the detention basins or the new wetlands for more than 30 days. In calculating whether water is retained in storage, the Division considers that the first water into a reservoir is the last water exiting the reservoir.

E-2

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,

Katherine Mrowka, Chief
Watershed Unit 3

DEC 6 2005

California Environmental Protection Agency



LETTER E

KATHERINE MROWKA, STATE WATER RESOURCES CONTROL BOARD

RESPONSE E-1: The Commentor states that the project's realignment of Morrison Creek will destroy wetlands that would need to be relocated and that the detention basins and creek re-alignment project have not been designed yet. The Commentor is referred to Section 3.0 (Project Description) for a discussion of the proposed creek realignment, drainage facilities, and water quality basins and **Figure 3.0-4** in the Draft EIR illustrates the design of the realignment course, drainage channel, cross sections, and location of the water quality/detention basins.

RESPONSE E-2: The Commentor states that a water right permit is required prior to initiating any new use of water and that an appropriative water right is required if water is retained in the detention basins or the new wetlands for more than 30 days. This comment does not relate to the project, as it does not intend to divert water from Morrison Creek in a manner that requires a water rights permit. Notably, State Water Resources Control Board (SWRCB) requirements provide that anyone who intends to divert water from surface waters or subterranean streams flowing in known and definite channels either 1) directly to use on land which is not riparian to the source, 2) to storage in a reservoir for later use on either riparian or non-riparian land, or 3) for direct use of water which would not be naturally in the source, must apply and obtain SWRCB permits prior to water storage activities. The proponent of the Preserve at Sunridge does not intend to use water in any such matter. The proposed Detention/Water Quality basin for the Preserve development will be designed to detain low flows per the State Regional Water Quality Control Board's requirements. The specified water quality volume will be released fully in approximately two days. Storm flow detention will not exceed the length of the storm by more than three days. No further response is required.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR



Faxed

FACSIMILE TRANSMITTAL SHEET

TO: Hilary Anderson	FROM: Andrew Stresser
COMPANY: Caltrans	DATE: 12/2/2005
FAX NUMBER: 916-361-1574	TOTAL NO. OF PAGES INCLUDING COVER: 5
RE:	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:
This was sent to the City Hall, so I am faxing it to PMC.

DEC 5 2005
PACIFIC MUNICIPAL
CONSULTANTS

3121 GOLD CANAL DRIVE
RANCHO CORDOVA, CA 95670
(916) 942-0222
FAX: (916) 853-1691

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Sent By: HP LaserJet 3100;

916 323 7669 ;

Dec-2-05 5:10PM;

Page 1

Post-It® Fax Note	7671	Date	12/05/05	# of pages	4
To	Planning, Hilary Anderson	From	Andrew Strosser		
Co./Dept.	City Rancho Cordova	Co.	Calltrans		
Phone #		Phone #	(916) 274-0629		
Fax #	(916) 853-1680	Fax #	(916) 274-0648		

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Sent By: HP LaserJet 3100;

916 323 7669 ;

Dec-2-05 5:10PM;

Page 2/4

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 3 – SACRAMENTO AREA OFFICE
VENTURE OAKS – MS 15
P.O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 274-0614
FAX (916) 274-0648
TTY (530) 741-4509

Letter F



*Flex your power!
Be energy efficient!*

December 2, 2005

05SAC0185
03-SAC-50 PM 12.496
The Preserve at Sunridge (formerly known as Sunridge Village)
Draft Environmental Impact Report (DEIR)
SCH# 2004092051

Ms. Hilary Anderson
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Dear Ms. Anderson:

Thank you for the opportunity to review and comment on the Preserve at Sunridge Draft Environmental Impact Report (DEIR). Our comments are as follows:

In the DEIR:

- Table 4.4-5 on page 4.4-9 presents LOS data that does not reflect existing conditions. Caltrans does not concur as visual record of daily activities indicates a far lower LOS. F-1
- Table 4.4-6 on page 4.4-10 has a footnote that indicates "Operations are worst at these ramp terminal intersections than reflected in the LOS analysis." However, the table reflects LOS A, B and C which is extremely misleading when these sites are operating at D and E. Table 4.4-6 should be altered to properly reflect existing conditions. F-2
- Regarding table 4.4-7 on page 4.4-16, Caltrans data shows lower LOS figures and higher density figures. We have provided a table that reflects Caltrans figures and request this be incorporated into the document. F-3
- Table 4.4-8 on page 4.4-17 Sunrise Boulevard westbound on-ramps to US-50 seem to be missing. Please provide reasoning for omission. F-4
- The existing condition data we are providing will change existing plus project figures throughout the report. Please update other tables in the report to reflect the changes listed above. F-5

"Caltrans improves mobility across California"

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Sent By: HP LaserJet 3100;

916 323 7669 ;

Dec-2-05 5:11PM;

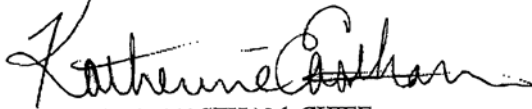
Page 3/4

Ms. Hilary Anderson
December 2, 2005
Page 2

We welcome the opportunity to review the revised TIS prior to its inclusion in the FEIR. If you have any question regarding these comments, please contact Andrew Stresser at (916) 274-0629

F-6

Sincerely,



KATHERINE EASTHAM, CHIEF
Office of Transportation Planning - Southwest

cc: Jim Calkins, Traffic Operations
Andrew Stresser, Transportation Planning

"Caltrans improves mobility across California"

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Table 4.4-7
Freeway Segment Level of Service – Existing Conditions

Eastbound US-50						
West of Mather Field Road	4	45	E	35	E	
Mather Field Road to Zinfandel Drive	4	32	D	-	F	
Zinfandel Drive to Sunrise Boulevard	4	23	C	-	F	
Sunrise Boulevard to Hazel Avenue	3	27	D	-	F	
East of Hazel Avenue	3	28	D	-	F	
Westbound US-50						
East of Hazel Avenue	2	-	-	-	-	-
Hazel Avenue to Sunrise Boulevard	3	-	E	-	D	
Sunrise Boulevard to Zinfandel Drive	4	-	E	-	D	
Zinfandel Drive to Mather Field Road	4	-	F	-	F	
West of Mather Field Road	4	-	F	-	F	

Source: Caltrans Fall 2003 Congestion Report

LETTER F

KATHERINE EASTHAM, DEPARTMENT OF TRANSPORTATION

RESPONSE F-1: The analysis presented in **Table 4.4-5** is accurate, based on the applied analysis methodology, and representative of daily traffic conditions. As outlined on page 4.4-5, the analysis methodology compares average daily traffic volumes (two way total) to daily volume thresholds for different roadway types, and is used to identify the need for new or upgraded facilities.

RESPONSE F-2: The results presented in **Table 4.4-6** are based on the number of vehicles that are counted at (i.e., travel through) each study intersection during the AM or PM peak hour. The analysis methodology does not account for vehicles that are delayed due to upstream or downstream congestion and that do not make it through an intersection during the peak hour. The footnote referenced in **Table 4.4-6** and the first paragraph on page 4.4-15 was included in the Draft EIR to clarify this situation.

RESPONSE F-3: The analysis results presented in **Table 4.4-7** summarize freeway segment level of service under existing conditions based on the Highway Capacity Manual (HCM) methodologies. The HCM analysis results were compared to the Caltrans District 3 Highway Congestion Monitoring Program (HICOMP) for Sacramento Metropolitan Area, Fall 2004 (refer to page 4.4-15 of the Draft EIR), which identifies LOS F conditions on many of the study freeway segments during the AM and PM peak hours that are shown to operate at LOS E or better based on the HCM methodologies. As outlined on page 4.4-16, the different results are due to the differences in analysis methodology. The results presented in the Caltrans HICOMP report are based on field measurements that include the effect of downstream bottlenecks, which cause vehicle queues that affect upstream traffic operations. The HCM methodologies do not account for downstream conditions; consequently, the HCM results show better LOS and lower densities. The results of both the HCM analysis and the HICOMP were used to analyze potential impacts of the proposed project.

The Caltrans data, which shows worse LOS and higher densities than reported in **Table 4.4-7** for some of the study freeway segments, is more consistent with the congested locations from HICOMP. Since the impact analysis considered both the HCM analysis and the HICOMP, the results of the impact analysis would not change. The addition of the project would result in impacts to the westbound and eastbound U.S. 50 under Baseline, Interim Year (2014), and Cumulative (Year 2030) conditions, which are discussed in **Impact 4.4.4**, **Impact 4.4.9**, and **Impact 4.4.14**, respectively.

RESPONSE F-4: **Table 4.4-8** summarizes merge/diverge/weave level of service on U.S. 50 under existing conditions. The Sunrise Boulevard westbound on-ramp is not a merge section as defined in the Highway Capacity Manual; therefore, it is not included in **Table 4.4-8**. The westbound on-ramp becomes the fourth westbound through lane on U.S. 50 (i.e., is a lane add). The mainline analysis presented in **Table 4.4-7** and discussed on pages 4.4-15 and 4.4-16 of the Draft EIR best represents operations of this freeway location.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

RESPONSE F-5: After reviewing Comments F-1 through F-4, no modifications to the document are required.

RESPONSE F-6: Comment F-6 does not address the adequacy of the Draft EIR and no response is necessary.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter G



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

DEC 05 2005

Hilary Anderson, Environmental Coordinator
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Subject: Draft Environmental Impact Report for "The Preserve at Sunridge" Project

Dear Ms. Anderson:

We are writing in response to the Draft Environmental Impact Report (DEIR) for the proposed project "The Preserve at Sunridge" within the Sunrise Douglas Community Planning Area (SDCPA). As I stated in my letter to you dated February 18, 2005, regarding the Notice of Preparation of the DEIR, EPA has serious concerns regarding the proposed project because of its lack of compliance with the Clean Water Act (CWA), in particular the Section 404(b)(1) Guidelines. We have also stated these objections in a recent letter to the Corps of Engineers (Corps) dated November 18, 2005 (attached).

G-1

Over the years, EPA has invested heavily in assisting Sacramento County with regional planning and permitting. We have also been active in multi-party negotiations to resolve the regulatory issues for the entire 6,025-acre SDCPA. Our efforts on permitting for projects within the SDCPA commenced in 1988 when the Sammis Corporation applied for a CWA Section 404 permit from the Corps for what is now the Anatolia property.

More recently, in February 2004, a series of negotiations commenced wherein Representative Ose asked EPA, the Corps, and the U.S. Fish and Wildlife Service to develop an integrated permitting strategy for the rest of the SDCPA to address provisions of the CWA and the Endangered Species Act. These talks involved the three federal agencies, the City of Rancho Cordova, all the landowners, developers and their environmental consultants. The following documents resulted from the talks: (1) a ten-point "Conceptual-Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area" (Conservation Strategy) dated June 2004; and (2) a preserve map of the parcels within the SDCPA that need protection in perpetuity so the entire development complies with the federal regulations. The agencies deemed these preserves minimally protective of aquatic resources, and virtually all the landowners in the SunRidge and SunCreek Community Planning Areas agreed upon the preserve configuration for both individual parcels and for the collection of parcels that comprise conservation corridors within the watersheds of Laguna and Morrison creeks.

G-2

The negotiations also resulted in a framework for integrating compliance with the Federal Guidelines promulgated under CWA Section 404(b)(1), the California Environmental Quality Act, and the National Environmental Protection Act. As you know, the stakeholders for the SunCreek Specific

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3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Planning Area agreed to have the Corps and the City of Rancho Cordova become the lead agencies for preparing a combined Environmental Impact Report/Environmental Impact Statement to reflect the Conservation Strategy and preserve map.

G-2 cont.

In contrast, the DEIR for "The Preserve at Sunridge" indicates the applicant proposes to develop the vast majority of the 530-acre site in a manner inconsistent with the Conservation Strategy and preserve map, leaving small pockets of "community park" lands and a 92.4-acre "wetland preserve." This proposed development scenario continues to represent a similar level of environmental damage as compared to the proposal originally submitted by A&P Investments, which EPA strenuously opposed when that owner submitted the project proposal in 1998.

G-3

In a letter from the Corps, signed by Michael Jewell on October 8, 2004, you were informed that the project does not appear to be "least damaging practicable alternative" (LEDPA). Mr. Jewell further informed you that not selecting the LEDPA as your preferred alternative would make "it difficult for [the Corps] to make a positive permit decision." We agree with this finding and our letter to the Corps dated November 18, 2005 formally identifies the project as a candidate for elevation pursuant to the 404(q) Memorandum of Agreement signed by EPA and the Corps in 1992.

G-4

If you wish to discuss this matter further, please contact me at (415) 972-3472, or Paul Jones or Elizabeth Goldmann of my staff at (415) 972-3470 and (415) 972-3398, respectively.

Sincerely,



Karen Schwinn
Associate Director
Water Division

Attachment

cc: Will Ness, US Army Corps of Engineers
Ken Sanchez, US Fish and Wildlife Service
Regional Water Quality Control Board (Central Valley Region)

2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

NOV 18 2005

Colonel Ronald N. Light
District Engineer
U.S. Army Corps of Engineers
Sacramento District
1325 J Street, 14th Floor
Sacramento, CA 95814-2922

Subject: Public Notice (PN) Number 200400707;
Forecast Homes, City of Rancho Cordova, California

Dear Colonel Light:

We have reviewed the subject PN dated 31 October 2005 for the proposed Sunridge Village project located within the Sunrise Douglas Community Plan Area in the City of Rancho Cordova. We prepared the following comments under the authority of, and in accordance with, the Federal Guidelines promulgated at 40 CFR 230 under Clean Water Act (CWA) Section 404(b)(1). Please find our detailed comments attached.

We have determined the proposed project does not comply with restrictions to discharge detailed in the Federal Guidelines, and is a candidate for elevation pursuant to the 1992 Memorandum of Agreement (MOA) between EPA and the Department of the Army per CWA Section 404 (q). We respectfully object to issuance of a permit for the proposed project on the basis that the authorization **may result** in substantial and unacceptable impacts on aquatic resources of national importance (ARNIs).

The basic project purpose for the proposed project appears to residential development -- a non-water dependent use. The Federal Guidelines presume that practicable alternatives exist for non-water dependent uses that do not require the discharge of fill material into special aquatic sites (e.g., vernal pools and seasonal wetlands), unless clearly demonstrated otherwise. The applicant has not: (1) demonstrated compliance with the Guidelines; (2) evaluated an adequate range of alternatives; (3) demonstrated that the proposed project is the least environmentally damaging practicable alternative (LEDPA); or (4) addressed direct, secondary, and cumulative impacts to aquatic resources.

In a letter to the City of Rancho Cordova dated 8 October 2004, the Corps stated the proposed project does not appear to be the LEDPA, and further informed the City that by not selecting the LEDPA as the preferred alternative, it would make "it difficult for [the Corps] to make a positive permit decision." We concur with the Corps' finding.

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3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

We look forward to working with your staff and the applicant to resolve the important environmental issues surrounding the proposed project. If you wish to discuss this matter further, please contact me at (415) 972-3572, or refer your Regulatory Branch Chief to Tim Vendlinski, Supervisor of our Wetlands Regulatory Office at (415) 972-3464.

Sincerely,

Alexis Strauss 18 Nov. 2005
Alexis Strauss
Director, Water Division

Attachment: Detailed EPA concerns

cc:
Applicant
City of Rancho Cordova (Hillary Anderson)
CDFG, Sacramento
Regional Water Quality Control Board (Central Valley Region)
USFWS, Sacramento

Detailed EPA Concerns

PN #200400707; Forecast Homes; City of Rancho Cordova, CA

I. Interagency Coordination and Relationship with the Proposed Project

For seventeen years, EPA has worked closely with the Corps and other federal, State and local agencies to plan for infrastructure development and the comprehensive conservation of aquatic resources across a 300,000-acre region in South Sacramento County, and we spent ~\$750,000 to advance these efforts. However, in the absence of a comprehensive regulatory framework to guide development and conservation, ongoing suburban development and the conversion of rangelands continue to result in significant losses of aquatic resources, the degradation of water quality, and the preclusion of conservation opportunities.

II. Sunrise Douglas Community Plan / Sunridge Specific Plan

The applicant's proposed project is located within a 6,042 acre area corresponding with the Sunrise Douglas Community Plan Area (SDCPA) per the Sunrise Douglas Community Plan/Sunridge Specific Plan Final Environmental Impact Report, November, 2001. The Community Plan envisions the construction of 22,503 dwelling units, commercial development (479 acres), recreational parks (177 acres), and schools (148 acres). The Sunridge Specific Plan corresponds with 2,632 acres and serves as a subset of the larger Community Plan. The Specific Plan contains detailed land-use prescriptions and facility plans for near-term development.

Our efforts on permitting for projects within the SDCPA commenced in 1988 when the Sammis Corporation applied for a Clean Water Act (CWA) Section 404 permit from the U.S. Army Corps of Engineers (Corps) for what is now the Anatolia property.

In February 2004, the most recent series of negotiations commenced wherein Representative Ose asked EPA, the Corps, and the U.S. Fish and Wildlife Service (FWS) to develop an integrated permitting strategy for the SDCPA to address provisions of the CWA and the Endangered Species Act (ESA). These talks involved the three federal agencies, all the landowners, developers, and the environmental consultants. The following documents resulted from the talks: (1) a ten-point "Conceptual-Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area," dated June 2004 (Conceptual Strategy; Attachment 1); and (2) a conceptual preserve map of the parcels within the SDCPA that need protection in perpetuity so the entire development complies with the federal regulations (Attachment 2). The agencies deemed these preserves minimally protective of aquatic resources, and virtually all the landowners in the SunRidge and SunCreek Community Planning Areas agreed upon the preserve configuration for both individual parcels and for the collection of parcels that comprise conservation corridors within the watersheds of Laguna and Morrison creeks.

The negotiations also resulted in a framework for integrating compliance with the Federal Guidelines promulgated under CWA Section 404(b)(1), the California Environmental Quality Act (CEQA), and the National Environmental Protection Act (NEPA). The stakeholders for the SunCreek Specific Planning Area basically agreed to give to the Corps and the City of Rancho Cordova the lead for preparing a combined Environmental Impact Report/Environmental Impact Statement (EIR/EIS) to reflect the conceptual-level conservation strategy and preserve map.

A&P Investments

Prior to the development of the June 2004 Conservation Strategy for the SDCPA, the previous owner of the site for the proposed Forecast Homes project, A&P Investments, sought a permit from the Corps to develop the 530-acre property. Since 1997, EPA has participated in meetings regarding development of the site for the proposed project. Following a request for permit authorization from the Corps, EPA sent letters to the Corps dated 15 November 2001 and 7 December 2001 objecting to the issuance of a permit for the proposed project. Pursuant to the 404(q) MOA, EPA determined the proposed project would have substantial and unacceptable impacts to aquatic resources of national importance (ARNIs) and recommended denial of the permit.

AKT Corporation

The ownership of the property has since been transferred to the AKT Corporation (AKT). During this transfer, and at the request of FWS, we participated in four separate meetings with representatives of FWS, the Corps, AKT, the City of Rancho Cordova, and Congressman Ose's office. During these meetings on 21 October 2004, 6 December 2004, 17 December 2004, and 5 January 2005, we negotiated in good faith to address the needs of the applicant and to resolve the regulatory challenges. During this process, we exchanged "white papers" in which the agencies and AKT articulated issues and concerns beyond what was already stated in previous negotiations and, for the agencies, in the Conceptual Strategy. The agencies stressed the importance of maintaining the existing alignment of Morrison Creek and designing a conservation network that would connect the preserve lands northeast of the project site with the existing preserve at Anatolia (owned by AKT). AKT underscored the importance of having a "town center" design. In the end, despite the willingness of the agencies to further modify the design of the conceptual preserve maps already approved by the agencies and the stakeholders, AKT refused to modify the design of their proposed project.

III. Description of the Site for the Proposed Forecast Homes Project

The project site covers 530 acres and encompasses 21.42 acres of jurisdictional waters including 4.48 acres of riverine and depressional seasonal wetlands, 15.39 acres of vernal pools, and 1.55 acres of Morrison Creek, an intermittent stream. Vernal pools occur within the grassland as a complex of pools and tributary swales located mainly in the southeastern portion of the project site. A large tributary of Morrison Creek transects the site, and flows from the northeast corner

to the central western boundary. The project site and adjacent lands have been primarily used for cattle grazing and other passive agricultural activities, which have allowed ecosystem processes to function at a relatively high-level compared to surrounding areas that are more fragmented and degraded.

IV. Impacts from the Development Proposed by Forecast Homes

The applicant proposes to construct mixed-use development containing approximately 290.4 acres of low to high density residential development, 17 acres of commercial space, a 10.9 acre school campus, 66.7 acres of parks and parkways, 35 acres of landscape corridors and roadways, and 23 acres of storm water detention and water quality basins. Construction of the proposed project would result in the permanent loss of 14.54 acres of waters. The aquatic habitat to be impacted include 9.33 acres of vernal pools, 3.66 acres of riverine and depressional seasonal wetlands, and 1.55 acres of Morrison Creek. Morrison Creek would be re-routed under the existing Sacramento Municipal Utility District's transmission corridor.

The remaining 87 acres would be set aside in perpetuity as open space and wetland preserve. The preserve would contain approximately 6.33 acres of waters, including 0.75 acres of riverine and depressional seasonal wetland habitats, and 5.58 acres of vernal pools.

According to the PN, the proposed project may affect federally-listed species within the region including the endangered vernal pool tadpole shrimp (*Lepidurus packardii*), the threatened vernal pool fairy shrimp (*Branchinecta lynchi*), slender orcutt grass (*Orcuttia tenuis*), and the California Tiger salamander (*Ambystoma californiense*). CDFG has recently identified the presence of *Dumontia Oregonensis* at the project site, a relatively rare crustacean with no common name.

Morrison Creek and adjacent aquatic habitats are special aquatic sites under the Federal Guidelines because they comprise riverine riffle and pool complexes and wetlands (40 CFR sections 230.41 and 230.45). Under CWA regulations, special aquatic sites are recognized for their important role in maintaining the health of aquatic ecosystems. The special aquatic sites threatened by the proposed project possess the special ecological characteristics of high food-web productivity, physical habitat for fish and wildlife, water quality, and other important and easily disrupted ecological functions. In short, the creek and associated wetlands contribute to the overall environmental health and functional capacity of the regional ecosystem.

The applicant has not catalogued or quantified the indirect or secondary impacts of the proposed project; these include: (1) reduction in water quality in downstream reaches of Morrison Creek due to erosion; sedimentation, flow impediments, and pollutant runoff; (2) fragmentation of large, intact, high-functioning wetland complexes that change ecosystem process at a regional level and reduce the functional capacity of wetlands; (3) introduction of non-native and noxious pests and weeds; and (4) increases in noise, air pollution, and other disturbances related to human activities.

The scale of the proposed project and magnitude of potential impacts requires a detailed evaluation of direct, secondary, and cumulative effects resulting from each of the alternatives considered. The applicant has documented direct impact to Morrison Creek and associated wetlands, but has not provided an estimate of secondary effects that may result from channel modification and fill of wetlands.

Secondary Impacts (40 CFR 230.11(h))

Potential secondary effects include: (1) changes in hydrology and sediment transport capacity of Morrison Creek; (2) changes to water velocity as a result of adjusting channel width; (3) migration of low-flow channels as a function of the watershed sediment budget; (4) the potential for headward and downstream erosion at transition points; (5) bank instability resulting from increased bank erosion; (6) impacts from development in the 100-year floodplain made possible by channel realignment; (7) increases in impervious surfaces and the corresponding increases in the volume and velocity of polluted stormwater; (8) decreases in the water quality from the impairment of floodplain and ecosystem services including water filtration, groundwater recharges, and flood attenuation; (9) disruption of hydrological and ecological connectivity; and (10) decreases in biodiversity and ecosystem stability.

Vernal pools and other seasonal wetlands - Vernal pools are susceptible to impacts from changes in the surrounding uplands. Alterations in hydrology can occur from modifying drainage patterns, creating roads and other impermeable surfaces, creating new vernal pools, installing drains, destroying vernal swales, removing vegetation, altering the natural topography, and constructing detention basins. These impacts can affect both ground and surface water flows, resulting in significant changes to vernal pool hydrology, which, in turn, will affect the pools and the organisms they support.

Certain animals found in vernal pool habitats have non-aquatic ranges during their adult stage, but require ponded water in their early life stages. In addition to the vernal pool crustaceans protected by the ESA, and whose existence is benefitted by an intact watershed because of the benefits of transportation and gene-pool interactions, there are a number of other wildlife known to exist at or near the site. Western spadefoot toads (*Scaphiopus hammondi*), known to exist at the Anatolia preserve, and within the project area, but it appears their population has been in decline over the past 20 years in the vicinity of Sunrise, Douglas and Grant Line roads, and the toad has been recommended as a candidate for federal listing. The toads either dig burrows or occupy existing mammal burrows in the dry season, and they become active with the onset of winter rains and breed in vernal pools, streams, and reservoirs.

The California tiger salamander (CTS or *Ambystoma californiense*), may exist in the project area as suitable terrestrial and aquatic habitat occur in the SDCPA. The CTS occupies burrows in uplands adjacent to vernal pools, and will travel great distances (~1 mile) to reach vernal pools during the wet season to breed.

Another example of the interdependence between vernal pools and animals is with solitary bees. They are host-specific pollinators of vernal pool plants during the brief period of spring flowering. Depending on the species, bee distributions are contained within the geographic ranges of the vernal pool host plants. According to Thorpe (1990), "they are the most abundant and important pollinators of outcrossing populations of many vernal pool plants." Thorpe recommended that "[h]abitat conservation should be emphasized when making policy decisions, to include nest sites of these specialist pollinators."

Overall, much is not known about the populations, breeding requirements, foraging ranges, and other life cycle elements of the plants, insects, amphibians, reptiles, raptors, waders, and songbirds that inhabit the project site. Complex food webs and other animal-plant interactions could be seriously affected by the project if implemented.

As of several years ago, almost 60 bird species had been observed at Sunrise-Douglas. Several species of mammals inhabit the site, including pocket gophers, deer mice, voles, coyotes, black-tailed hares, ground squirrels, striped skunks, jackrabbits, and American badger (*Taxidea taxus*). The American badger, a resident species, is the only special-status mammal in the project area (state species of special concern).

All of these wildlife species listed above have complex survival strategies, which depend on varying degrees on streams, vernal pools, vernal swales, and associated upland habitats. Hydromodifications, truncated or severely diminished preserve sizes, and human disturbances associated with development will have negative effects on these animals. Under the SunRidge 530 development scenario, these animals would be essentially displaced from the area.

The federal agencies have stressed that the preserve sizes shown on the map associated with the June 2004 Conceptual Strategy are minimally protective of the functions necessary for the preservation of the flora and fauna currently found in the project area. The mere surrounding of these remaining areas in the preserves with urban or suburban development will greatly stress these organisms and alter their natural environment. Further reducing these preserves in size, truncating them, or making them more linear than shown in the agencies' conceptual preserve map will put more stress on the natural ecosystem by increasing the edge-to-area ratio and by placing the core of the preserves in closer contact stressors caused by human activities.

The proposed project will result in the direct loss of 14.54 acres of vernal pools, vernal swales and intermittent drainages. Vernal pool landscapes and the associated creeks within South Sacramento County play an important role in sheltering flora and fauna, maintaining water quality, providing opportunities for recreation and education. Given this, and in light of the adverse impacts anticipated from the proposed project and those envisioned by the aforementioned Specific Plans and Community Plan, we have made the determination that the resources at risk constitute aquatic resources of national importance.

Cumulative Impacts (40 CFR 230.11(g))

Under the Federal Guidelines at 40 CFR Part 230.11(g), the Corps must determine the cumulative effects on the aquatic ecosystem. Cumulative impacts are the changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual discharges of dredged or fill material. The applicant's evaluation should include the combination of past, present and reasonably foreseeable direct and secondary effects to Morrison Creek and the surrounding wetlands.

Previously, the Corps' permit for the Saris-Regis (Anatolia) project authorized the loss of 38 acres of jurisdictional waters, including wetlands. The proposed Forecast Homes project would directly impact another 14.54 acres of waters of the U.S, including wetlands. Overall, the adverse effects already authorized by the Corps plus additional impacts expected from proposed projects at SunRidge and SunCreek amount to a loss of 120 acres of wetlands in the immediate area (including the headwaters of Laguna and Morrison creeks). From a regional standpoint, this loss of wetlands represents a fraction of the losses predicted for future developments in the area including Mather Field to the west, the Waegell property to the south, and the Cordova Hills project to the east. The anticipated destruction of aquatic resources and associated impacts on federally-listed species related to the proposed Forecast Homes project and other projects nearby represent serious cumulative impacts and the significant degradation of aquatic resources of national importance.

Water Quality

Development alters the surface of the land, by replacing the natural cover of soils and vegetation with impervious surfaces and infrastructure. Anticipated build-out within the SDCPA will increase the volume and velocity of polluted runoff into surface waters at the same time the proposed modifications of Morrison and Laguna creeks make it less likely the creeks will retain their natural ability to absorb and cleanse runoff in a manner that safeguards aquatic life and municipal water supplies. Currently, Morrison Creek is listed as an impaired water body for diazinon under Clean Water Act Section 303(d).

V. NEPA Compliance

The potential adverse effects on aquatic resources from direct impacts (14.54 acres) appear more than sufficient to meet NEPA's threshold of "significance" (40 CFR 1508.27). An EIS is the appropriate level of analysis to evaluate this project due to the magnitude of potential adverse direct, indirect, secondary, and cumulative impacts. A Department of the Army permit for the proposed project would constitute a major federal action, authorizing and/or facilitating landscape-scale environmental impacts on jurisdictional waters within the Morrison Creek watershed. Given the Corps has "sufficient control and responsibility" over these impacts, the scope of analysis must encompass the entire project, not just the direct discharges (33 CFR 325, Appendix B).

In addition to this project, there are other on-going development underway within the SDCPA. Landowners in the SunCreek Specific Planning Area adjacent to and south of the proposed project are currently developing an EIR/EIS. The potential secondary and cumulative aspects of these proposed projects in conjunction with the proposed Sunridge Village should be evaluated. A cumulative impacts analysis should include a comprehensive examination of the permanent environmental impacts to the Morrison and Laguna creek watersheds from the proposed Forecast Homes project in combination with surrounding development currently underway and reasonably foreseeable.

VI. Aquatic Resources of National Importance

Per the 404(q) MOA, it appears Corps authorization of the proposed project may result in unacceptable adverse effects to aquatic resources of national importance (ARNIs).

Morrison Creek - The Morrison Creek basin encompasses ~180 square miles. Elevations range from ~300 feet above mean sea level in the upper watershed to 10 feet below mean sea level in the Beach Lake and Stone Lakes area. Normal precipitation ranges from 20 inches in the upper reaches of the Morrison Creek watershed to 15 inches at South Stone Lake.

In 1994, FWS established the Stone Lakes National Wildlife Refuge (NWR) as the 505th unit in the NWR System to protect unique and vulnerable natural resources in southern Sacramento County. The Stone Lakes NWR along with Morrison Creek, the Cosumnes River, and the Mokelumne River are key features of the greater North Delta region.

Every 2-3 years, Morrison Creek overtops the levee in the vicinity of Beach Lake and the Bufferlands surrounding the wastewater treatment plant, and this hydrological connection ties together the Morrison Creek system with the Stone Lakes NWR. Modification of the hydrology of Morrison Creek and the degradation of the creek's water quality can adversely affect the NWR, and, already, the creek is listed as an impaired water body for diazinon under CWA Section 303(d).

Vernal Pool Landscape - The vernal pool landscape encompassed by the SDCPA represents and increasingly rare, relatively unfragmented wetlands complex. Vernal pools support endemic plant and animal life and, in this area, support 26 invertebrate taxa, 3 species of amphibians, 51 avian species and several mammal species -- including over 15 special status species. California has lost more than 90% of its wetlands (California Department of Parks and Recreation 1988). Holland (1998) estimated that 6.2% of vernal pool habitat is lost every year in counties corresponding with the Sacramento Corps District. Vernal pools and swales are highly susceptible to modification to their hydrology from surrounding land use changes. The direct impacts are obvious, and the indirect impacts can be related to increases or decreases in hydroperiod, addition of pollutants (sediment and non-point source runoff), and susceptibility to invasions by non-indigenous species.

VII. Clean Water Act Compliance

The purpose of the Guidelines is to restore and maintain the chemical, physical, and biological integrity of waters of the United States (waters). These goals are achieved, in part, by controlling discharges of dredged or fill material (40 CFR 230.1(a)). Fundamental to the Federal Guidelines is the principle that dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that there is no less environmentally damaging practicable alternative that achieves an applicant's project purpose. In addition, no discharge can be permitted if it will cause or contribute to significant degradation of waters. The applicant is proposing to physically alter Morrison Creek and to fill wetlands which are aquatic resources of national importance. Given the extent of the impacts associated with the proposed activities, the applicant bears the burden of clearly demonstrating that the preferred alternative is the LEDPA that achieves the overall project purpose while not causing or contributing to significant degradation of the aquatic ecosystem.

LEDPA - 40 CFR 230.1(a)

Identification of the LEDPA is achieved by performing an alternatives analysis that estimates the direct, secondary, and cumulative impacts to jurisdictional waters resulting from each alternative considered. Project alternatives that are not practicable and do not meet the project purpose are eliminated. The LEDPA is the remaining alternative with the fewest impacts to aquatic resources, so long as it does not have other significant adverse environmental consequences. The applicant has not provided information concerning project alternatives.

The basic project purpose for the proposed Forecast Homes project is residential development; the overall project purpose is the basic purpose plus the cost, technical, and logistical factors associated with that basic purpose. This includes any essential elements necessary in order to meet the basic project purpose.

Section 230.10(a)(2) of the Federal Guidelines states that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. The term overall project purpose is not defined, but EPA looks to the underlying principles of the Guidelines to determine its meaning. It should be noted from the outset that any interpretation of overall project purposes must be in harmony with, and not to exclusion of, the rest of the Federal Guidelines.

The preamble to the Federal Guidelines explains that:

First, we emphasize that the only alternatives which must be considered are practicable alternatives (emphasis in original). What is practicable depends on cost, technical and logistic factors. We have changed the word economic to cost. Our intent is to consider those alternatives which are reasonable in terms of the overall scope/cost of the proposed project. The term economic might be

construed to include consideration of the applicant's financial standing, or investment, or market share, a cumbersome inquiry which is not necessarily material to the objectives of the Guidelines. We consider it implicit that, to be practicable, an alternative must be capable of achieving the basic purpose of the proposed activity (emphasis added) [45 Fed. Reg. 85339].

Thus, the practicability of alternatives should be evaluated in terms of the basic purpose as well as the overall scope/cost of the proposed project. A threshold test for evaluating alternatives is whether they are capable of achieving the basic purpose of the proposed activity. The next step is to analyze whether the alternatives achieve the basic purpose practicably, i.e., at a reasonable cost and in a technically and logistically reasonable manner. When calling for an assessment of the overall cost and scope of the proposed project, the intent of the Federal Guidelines is to determine whether the basic purpose of the applicant is reasonably achieved by the potential alternatives (as a matter of cost, logistics, and technology).

Alternatives may include areas not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity (40 CFR 230.10(a)(2)). Constraints that exist at the applicant's preferred site cannot necessarily be used to screen out otherwise practicable alternatives at other sites that may be less-damaging environmentally. Only when an analysis is correctly structured can the applicant or the permitting authority be assured that the practicable alternative has been selected whose proposed discharge represents the least adverse impact on the aquatic ecosystem (40 CFR 230.10(a)). In addition, the applicant must clearly demonstrate that alternatives affecting non-aquatic sites are either not practicable, or have other significant adverse environmental consequences.

In February 2004, EPA, the Corps, and FWS began talks with SDCPA stakeholders to develop an integrated permitting strategy for the SDCPA that would address provisions of the CWA and the ESA. The following documents resulted from the talks: (1) a ten-point "Conceptual-Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area," dated June 2004; and (2) a preserve map of the parcels within the SDCPA that needed perpetual protection so the entire development complies with the federal regulations. The agencies deemed these proposed preserves minimally protective of aquatic resources, and virtually all the landowners in the SunRidge and SunCreek Community Planning Areas agreed upon the preserve configuration for both individual parcels, and for the collection of parcels that comprise conservation corridors within the watersheds of Laguna and Morrison creeks.

The negotiations also resulted in a framework for integrating compliance with the Federal Guidelines, the California Environmental Quality Act (CEQA), and NEPA. The stakeholders for the SunCreek Specific Planning Area basically agreed to giving the Corps and the City of Rancho Cordova the lead for preparing a combined Environmental Impact Report/Environmental Impact Statement (EIR/EIS) to reflect the conceptual-level conservation strategy and preserve map.

In contrast, the PN for the Sunridge Project indicates the applicant, Forecast Homes, proposes to develop the vast majority of the 530-acre site in a manner completely inconsistent with the conservation strategy and preserve map, leaving only small pockets of "community park" lands undeveloped. This proposed development scenario represents an even greater level of environmental damage relative to the proposal originally submitted by A&P Investments.

In summary, the PN does not provide: (1) an analysis of off-site alternatives; (2) an analysis of on-site alternatives; or (3) substantive information to demonstrate the proposed project is the LEDPA. For these reasons, the applicant has not demonstrated compliance with the Federal Guidelines.

VIII. Significant Degradation – 40 CFR 230.10(e)

The proposed project faces serious permitting obstacles because the preferred alternative is likely to cause or contribute to significant degradation of Morrison Creek and its associated wetlands. The Federal Guidelines prohibit granting of a CWA Section 404 permit if project activities will cause or contribute to significant degradation of the Nation's waters including degradation to: (1) human health and welfare; (2) aquatic life and other wildlife; (3) aquatic ecosystem diversity, productivity, and stability; and (4) recreation, aesthetic, and economic values (40 CFR.20-230.54).

A goal of listing impaired water bodies under CWA Section 303(d) is to identify degraded waterways so agencies can formulate and prioritize actions for reducing the impairments and reversing the degradation. Unfortunately, impacts resulting from the proposed project will contribute to the degradation of Morrison Creek by modifying the creek channel and floodplain by restricting the channel and reconstructing it under a powerline. The proposed physical alterations to Morrison Creek may increase water velocity and suspended sediment loads adversely impacting human welfare, aquatic life, and water quality by increasing levels of sediment, organics and pesticides. Moreover, the proposed alterations may actually preclude the reduction of impairments and reversal of degradation through restoration projects. Conservation and restoration projects on Morrison Creek would be hampered by increased fragmentation of the landscape and creek corridor. Alone or in combination, changes brought on by the proposed project would be significant, adverse impacts under the Guidelines.

IX. Avoidance, Minimization, and Compensation – 40 CFR 230.10(d)

The applicant has proposed to compensate for direct impacts to aquatic habitats by creating/restoring vernal pools at a 1:1 ratio and by preserving vernal pool habitat at a 2:1 ratio. The applicant proposed to compensate for indirect impacts to vernal pool crustacean habitat within 250-feet of proposed development by preserving vernal pool habitat at a 2:1 ratio. The applicant has not indicated where the proposed mitigation would be accomplished.

It is premature to discuss the conceptual mitigation plan for the proposed project because the applicant has not demonstrated that the proposed project is the LEDPA. The applicant has not avoided and minimized impacts to the aquatic ecosystem to the maximum extent practicable, and the proposed compensatory mitigation for project impacts is inadequate for replacing the function and acreage of Morrison Creek and its associated wetlands. In earlier sections of these detailed comments, we have established that there are other alternatives to residential development that do not require filling 14.54 acres of wetlands and the relocation and confinement of the headwaters of Morrison Creek to a powerline easement.

The proposed compensatory mitigation plan for unavoidable impacts to aquatic resources is not adequate for four reasons: (1) The applicant has not demonstrated that the potential adverse impacts are unavoidable; (2) the applicant has not demonstrated how the proposed compensatory mitigation replaces acreage and function that would be lost to the proposed project; and (3) the proposed compensatory mitigation relies heavily on off-site preservation; and (4) overall, the proposed compensatory mitigation appears inconsistent with the requirements of the Regulatory Guidance Letter on mitigation (RGL 02-2) issued jointly by the Corps and EPA on 24 December 2002.

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LETTER G

KAREN SCHWINN, U.S. ENVIRONMENTAL PROTECTION AGENCY

RESPONSE G-1: The Commentor (EPA) expresses concerns regarding the proposed project because of its lack of compliance with the Clean Water Act (CWA), in particular the Section 404 (b)(1) Guidelines. The US EPA forwarded its objections to the project in a letter to the USACE on November 18, 2005. The City acknowledges EPA's concerns. The CWA 404 (b)(1) guidelines specifically applies to the Corps obligation in the CWA 404 permitting. The alternatives analyses presented in the DEIR represents the City's obligation under the CEQA guidelines and is not intended to represent an alternatives analyses for CWA 404(b)(1) compliance which has a different process and intent. It is the City's understanding to date, that a CWA 404(b)(1) alternatives analyses has not been provided by the applicant or the Corps for the project.

RESPONSE G-2: The Commentor describes the agency's role in multiparty negotiations in developing an integrated permitting strategy for the Sunrise Douglas Community Plan area, with guidelines promulgated under the CWA, CEQA and NEPA. The result of the negotiations was the 1) Conceptual-Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise Douglas Community Plan Area (Conservation Strategy); and 2) a preserve map indicating parcels within the SDCP area needing protection so that the whole development complies with federal regulations. The Conservation Strategy was developed to establish conservation corridors in the Laguna and Morrison watersheds. The negotiations resulted in a framework for integrating compliance with CEQA and NEPA. While, it seems likely than an EIS will be required for the project, the U.S. Army Corps of Engineers (USACE) has not made a formal determination about requiring an EIS for the Preserve at Sunridge project. The project applicants have submitted an application to USACE for a permit under Section 404 of the Clean Water Act. However, it has not been found to be "complete" by USACE to date. The 404 process is a federal permitting process and not a local entitlement process, whereas an EIR is required for the City's entitlement process. Rancho Cordova is required to prepare an EIR for the project because it was determined through the preparation of an initial study that the project would result in significant and unavoidable impacts. Additionally, the Commentor is referred to Master Response - Biological Resource Analysis, for a further discussion on the Conceptual Level Strategy.

RESPONSE G-3: The Commentor states that the DEIR indicates the proposed project is inconsistent with the Conceptual Level Strategy and that the development scenario continues to represent a similar level of environmental damage as the original proposal associated with the project site, which was opposed by the EPA in 1998. The Commentor is referred to Master Response - Biological Resource Analysis for a further discussion regarding the Conceptual Level Strategy.

RESPONSE G-4: The Commentor points out the October 8, 2005 Letter from the USACE "stating that the project is not the least environmentally damaging practicable alternative (LEDPA), making it difficult for a positive permit decision." Additionally, the Commentor identified the project as a candidate for elevation pursuant to the 404(q) Memorandum of Agreement signed by the US EPA and the USACE in

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

1992. This comment will be forwarded to the Rancho Cordova City Council for consideration and action. The Draft EIR analysis evaluated a reasonable range of alternatives, which includes the "Conceptual Level Strategy" (see Section 6.0 "Alternatives"). The Commentor is referred to Master Response – Biological Resource Analysis for a further discussion on the Conceptual Level Strategy.

Letter H



Larry Greene
AIR POLLUTION CONTROL OFFICER

December 21, 2005

Ms. Hilary Anderson
Environmental Coordinator
City of Rancho Cordova
3121 Gold Canal Dr
Rancho Cordova CA 95670

DEC 27 2005
PACIFIC MUNICIPAL
CONSULTANTS

RE: Draft EIR: The Preserve at Sunridge, RC-03-052
SAC200300036F

Dear Ms Anderson:

Thank you for forwarding this document to the Sacramento Metropolitan Air Quality Management District. Thank you, also, for extending our review due date beyond that of the published date, December 5, 2005. As you know, there have been some delays in our receiving all the information we needed for our review. Staff comments follow:

The DEIR included (Volume II, Appendices, Section 4.6, pg. 17) an analysis of the air quality impacts of the proposed project. In our 10/25/05 e-mail to the City (to H. Anderson), we requested that analysis be rerun, using the current version of the URBEMIS model. The project consultant has just recently supplied us with a revised URBEMIS run. According to this analysis, as was true with the original analysis, the construction and operational impacts of the project will exceed the District's threshold of significance. However, the values in the results of the two analyses are different. Because of that, Table 4-6-3 (Volume I) will need to be updated in the FEIR. The air quality analysis in Appendix 4.6 should also be stricken and replaced with the revised version.

H-1

Both the original air quality analysis and the updated analysis projected that emissions for this project will be significant for construction activities as well as operational activities.

Construction-related exhaust emission impact and mitigations

According to the air quality analysis, construction-related emissions were projected to be significant (Impact 4.6.2, pg4.6-24), and the City is requiring the District's standard construction mitigation (#4.6-2). That requires the proponent to get endorsement from us on a list of construction equipment prior to the issuance of any grading permits. We will be happy to work with the proponent as he prepares to begin construction. Once the project is approved by the City Council, please have the appropriate contractor contact Karen Huss at 874-4881 in our office.

H-2

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www.airquality.org

However, even after the application of this "standard construction mitigation," the project's construction emissions will be significant. There are projected to be an excess of 121,142.79 lbs of NO_x over the District threshold in construction-related emissions. In order to further mitigate the construction emissions, mitigation measure MM4.6.1b was applied: "Applicant shall pay SMAQMD's off-site mitigation fees (amount to be determined by SMAQMD upon approval of Air Quality Plan." Unfortunately, this reference to the (operational) Air Quality Plan is an error. The measure should read "In order to further mitigate the construction related emissions, applicant shall pay SMAQMD an off-site construction mitigation fee as specified in the construction mitigation spreadsheet which is attached in Appendix 4.6."

"Timing/implementation: The fee will be paid in total or as tentative maps get approved prior to issuance of any grading permit and/or ground disturbance."

Furthermore, we request that the text of the document prior to the listing of Mitigation Measure #4.6-2 discuss this off-site fee, how it is calculated and specify that the fee has been calculated to be \$823,771. For example, the document could say:

"Even after the application of this "standard construction mitigation," the project's construction emissions will be significant. In order to further mitigate the construction emissions, the applicant will pay an off-site mitigation fee of \$823,771 to SMAQMD. SMAQMD uses construction mitigation fees to fund cost-effective emission reduction projects in the Sacramento Federal Ozone Nonattainment Area. Examples of these projects include repowering off-road construction equipment with newer engines that meet more stringent emission standards, retrofitting diesel engines with diesel catalyst technology, providing incentives for the use of lower-emission fuels, and other cost-effective strategies. SMAQMD establishes the value of NO_x at the cost effectiveness standard established by the California Air Resources Board for the Carl Moyer Incentive Program. The Carl Moyer Program is a state funded program for reducing emissions from off-road equipment. All off-site mitigation fees for this project shall be based on the 2005 NO_x value of \$13,600/ton. The off-site mitigation fee for this particular project is shown in Appendix 4.6 and reflects the \$13,600/ton cost as well as the specific emissions calculated for this project. This fee can be submitted either as a total amount for an entire project or it can be phased over time as the project is built out on a \$/acre basis. In all cases, it or its relative portion should be submitted prior to the issuance of any grading permit for the area which gives rise to the impact."

H-2 cont.

A copy of the spreadsheet which the air quality consultant created is attached. This spreadsheet accounts for the calculation of the off-site construction mitigation fee. It should be included in the FEIR.

Operations-related exhaust emission impact and mitigation

According to the air quality analysis, operation-related emissions were projected to be significant (Impact 4.6.4, pg4.6-25) with 262.73 lbs NO_x/day and 453.14 lb/day of ROG. Therefore, the City is requiring the creation of an Air Quality Mitigation Plan in compliance with General Plan policy AQ-15. Such a plan is designed to reduce those emissions by at least 15%. We have worked with the proponent's consultant on appropriate measures for the plan. The draft Plan which was included in the DEIR was not endorsed by us. The proponent's consultant recently

H-3

777 12th Street, 3rd Floor ■ Sacramento, CA 95814-1908
916/874-4800 ■ 916/874-4899 fax
www.airquality.org

sent us a revised Plan, dated December 13, 2005. That Plan is endorsed by the District. We suggest the Air Quality Mitigation Plan in Appendix 4.6 of the DEIR be replaced in the FEIR with the AQMD endorsed Plan.

H-3
cont.

The revised Air Quality Plan of 12/13/05 refers to the City's upcoming Transportation Tax Area as opposed to a County Service Area. References in the DEIR text (pg 4.6-25) to the CSA-10 should be stricken and replaced with appropriate language about the Transportation Tax Area and projected services. We are awarding 2.5 emission reduction points to the services we assume will be provided through the Tax Benefit Zone which we understand will include the development at The Preserve. Because of that, the FEIR should discuss the proposed tax benefit zone and the services it will provide.

H-4

At a meeting with City representatives on December 16, 2005, we were assured that the services that would be included in the upcoming City of Rancho Cordova "Transportation Tax Area" would be equal to or greater than those in current County Service Area-10 zones. The District is particularly interested in the inclusion of Transportation Demand Management (TDM) services in the Benefit Zone which will cover The Preserve. We believe that active marketing of transit services, ridesharing programs, bike and pedestrian facilities and the provision of transit subsidies, among other things for this specific project, are necessary in order to help it achieve higher alternative transportation usage and comply with its Air Quality mitigation plan.

H-5

We recommend that the implementation of an SMAQMD-endorsed Air Quality Mitigation Plan be included in the FEIR as a specific mitigation measure. As it is now, this mitigation measure is not given a specific number in the way other measures are given numbers. See page 4.6-26. We assume it should be called Mitigation Measure 4.6.4.

H-6

We suggest the measure read:

MM4.6.4 *The proponent will implement the revised Air Quality Mitigation Plan, endorsed by SMAQMD, which will replace that in Appendix 4.6. It will serve as partial mitigation for the operational emissions of the project.*

If you have questions, please contact me at 874-4885 or jborkenhagen@airquality.org.

Sincerely,



Jeane Borkenhagen
Associate Air Quality Planner Analyst
Mobile Source Division

cc: Ron Maertz SMAQMD
Mr. Brian Vail River West Investments, Inc.
Ms Heidi Endsley The Hoyt Co.

Enc: Construction Emissions Mitigation Fee, a consultant-generated spreadsheet

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3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Construction Emissions Mitigation Fee (draft)						
PART 1: PROJECT INFORMATION						
Project Name:		Preserve at Sunridge				
Control/Application #:		[Redacted]				
Single Family Dwelling Units:	2415	[Redacted]				
Multi Family Dwelling Units:	288	Total Residential Acreage:	303.5			
Non-residential Square Feet:	243200	Total Non-residential Acreage:	226.6			
PART 2: EMISSIONS INFORMATION						
	Activity Phase	NOx (lbs/day) unmitigated	NOx (lbs/day) mitigated*	NOx over threshold (lbs/day)	duration (days)	Total significant NOx (lbs)
Year 1	Demolition	0.00	0.00	0	22	0.00
Year 1	Grading	832.38	665.90	580.90	29	16846.22
Year 1	Building Construction	667.65	534.12	449.12	132	59283.84
Year 2	Building Construction	636.68	509.34	424.34	103	43707.43
Year 2	Asphalt	254.58	203.66	118.66	11	1305.30
	<i>Total project NOx over threshold (lbs)</i>		121142.79			
	<i>Total project NOx over threshold (tons)</i>		60.57			
PART 3: MITIGATION FEE RESULTS						
<i>Total Mitigation fee (\$13,600/ton)</i>		\$823,771				
	Mitigation Fee (\$/acre)	\$1,553.99				
* assumes a construction mitigation plan which achieves a 20% reduction in NOx						

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

LETTER H

JEANE BORKENHAGEN SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

RESPONSE H-1: The Commentor requested that the analysis be re-run using the current URBEMIS model and that **Table 4.6-3** be updated to reflect the revised model run results and replace the air quality analysis in **Appendix 4.6** with the revised version. Additionally, the Commentor notes that the original and revised analysis indicates that the project will have significant construction and operational emissions, exceeding SMAQMD's established thresholds. In response to this comment, **Table 4.6-3** has been revised as follows:

**TABLE 4.6-3
PROJECT REGIONAL EMISSIONS, IN POUNDS PER DAY**

	ROG	NO _x
Construction		
Equipment and Vehicles	–	652.67 <u>832.38</u>
SMAQMD Significance Threshold	–	85.00
Operation		
Vehicles	213.56	227.45
Area Sources	138.64 <u>239.59</u>	35.20 <u>352.8</u>
Total	352.20 <u>453.14</u>	262.64 <u>262.73</u>
SMAQMD Significance Threshold	65.00	65.00

Additionally, the original air quality analysis contained in **Appendix 4.6** has been replaced with the revised version (dated 12-03-05). **Impact 4.6.1, Impact 4.6.2, Impact 4.6.4, and Impact 4.6.6** in the Draft EIR discloses the project's exceedance of established thresholds for both construction and operational emissions.

RESPONSE H-2: The Commentor notes that the DEIR identified construction-related emissions as significant (**Impact 4.6.2**, page 4.6.24) and the City is requiring standard construction mitigation (Mitigation Measure **MM 4.6.2**), which requires the project proponent to receive an endorsement from SMAQMD for the proposed construction equipment prior to the issuance of grading permits. The Commentor adds that even after mitigation, the project's construction-related emissions would remain significant, with an excess of 121,142.79 pounds of NO_x over SMAQMD's threshold for construction emissions. The Commentor suggests that mitigation measure **MM 4.6.1b** be revised to reflect the appropriate mitigation. As requested, mitigation measure **MM 4.6.1b** has been revised as follows:

MM 4.6.1b — Applicant shall pay SMAQMD's off-site construction mitigation fees (amount to be determined by SMAQMD upon approval of Air Quality Plan).

Timing /Implementation: — Prior to ground disturbance.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Enforcement/Monitoring: ~~City of Rancho Cordova Planning Department/SMAQMD.~~

MM 4.6.1b In order to further mitigate the construction related emissions, the applicant shall pay SMAQMD an off-site construction mitigation fee, as specified in the construction mitigation spreadsheet contained in **Appendix 4.6** of this EIR.

Timing/Implementation: The fee will be paid in total or as tentative maps get approved prior to issuance of any grading permit and/or ground disturbance.

Enforcement/Monitoring: City of Rancho Cordova Planning Department and SMAQMD.

Additionally, the Commentor also requests a discussion be added to the discussion under **Impact 4.6.1**, describing how the off-site mitigation fee is calculated, and to specify that the fee has been calculated to be \$823,771.

The following text has been added to the end of the third paragraph on page 4.6.22 of the DEIR:

“Even after the application of this “standard construction mitigation” the project’s construction emissions will be significant. In order to further mitigate the construction emissions, the applicant will pay an off-site mitigation fee of \$823,771 to SMOAMD. SMAQMD uses construction mitigation fees to fund cost-effective emission reduction projects in the Sacramento Federal Ozone Non-Attainment Area. Examples of these projects include repowering off-road construction equipment with newer engines that meet more stringent emission standards, retrofitting diesel engines with diesel catalyst technology, providing incentives for the use of lower-emission fuels, and other cost-effective strategies. SMAQMD establishes the value of NO_x at the cost effectiveness standard established by the California Air Resources Board for the Carl Moyer Incentive Program. The Carl Moyer Program is a state funded program for reducing emissions from off-road equipment. All off-site mitigation fees for this project are based on the 2005 NO_x value of \$13,600 per ton. The calculations used in determining the off-site fee for this particular project are included in **Appendix 4.6**. The calculations reflect the \$13,600/ton cost as well as the specific emissions calculations as they relate to this project. The off-site mitigation fee can be submitted either as a total amount for an entire project or it can be phased over time as the project is built out on a \$/acre basis. In all cases, the full fee or a relative portion of the fee should be submitted prior to the issuance of any grading permit for the area which gives rise to the impact”

The text will be added and no further response is required.

RESPONSE H-3: The Commentor acknowledges that the project’s operational air emissions will result in a significant impact (**Impact 4.6.4**, page 4.6-25) with 262.73 pounds of NO_x /day and 453.14 pounds/day of ROG. Commentor adds that original Air Quality Plan included in the Draft EIR is not endorsed by the SMAQMD. However, since the date of the Commentor’s letter, the City, applicant team, and

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

SMAQMD coordinated on a revised Air Quality Plan, which is endorsed by the SMAQMD. The revised Air Quality Plan replaced the original Plan and is included in **Appendix 4.6**.

RESPONSE H-4: The Commentor suggests that references in the Draft EIR (page 4.6-25) to the County Service Area 10 (CSA 10) should be replaced with appropriate language reflecting the City's Transportation Tax Area and projected services. SMAQMD is awarding 2.5 emission reduction points; therefore, the FEIR should include a discussion describing the proposed tax benefit zone and the services it will provide.

The text on page 4.6-25 of the DEIR has been amended as follows:

"On December 19, 2005, the Rancho Cordova City Council adopted Resolution No. 152-2005, which defines the transit-related services that the Rancho Cordova Transit-Related Services Special Tax Area (Special Tax Area) provides. The Special Tax Area was formed for providing, operating, maintaining, and subsidizing transit services and all supporting facilities, infrastructure, programs, and incentives. The transit-related services funded through the Special Tax Area are the same types of services provided for by CSA 10. The services include, but are not limited to, transit shuttle services, guaranteed ride home, educational programs, transportation coordinator training and support, transit facilities, bicycle and alternative fuel vehicle incentives and other services related to promoting alternative modes of transportation. Annexation into the County Service Area #10 would fund shuttle bus service and other transportation demand management services resulting from the project's implementation."

No further response is required.

RESPONSE H-5: The comment states that SMAQMD is interested in the inclusion of Transportation Demand Management (TDM) services in the Benefit Zone, which will serve the Preserve at Sunridge. This comment will be forwarded to City Council for further consideration. Additionally, the Commentor recommends the active marketing of transit services, ridesharing programs, and the provision of transit subsidies to achieve higher alternative transportation usage and compliance with the revised Air Quality Plan. The revised Air Quality Mitigation Plan for the project addresses the concerns of SMAQMD related to TDM services. Additionally, the new mitigation measure **MM 4.6.4** requires implementation of the revised Air Quality Mitigation Plan. See response to **Comment H-6**.

RESPONSE H-6: The Commentor recommends that the SMAQMD-endorsed Air Quality Plan be included in the FEIR as a new mitigation measure (**MM 4.6.4**). Mitigation measure **MM 4.6.4** will be added to page 4.6-26 and will read as follows:

"MM 4.6.4 The proponent shall implement the revised Air Quality Mitigation Plan, endorsed by SMAQMD, as included in **Appendix 4.6** of the Final FEIR. The revised Air Quality Mitigation Plan will serve as partial mitigation for the operational emissions of the project.

Timing/Implementation: Through all phases of the project.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Enforcement/Monitoring: City of Rancho Cordova Planning
Department and SMAQMD."

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter I

David Young

From: Cole. Justen (MSA) [coleju@SacCounty.NET]
Sent: Thursday, December 22, 2005 3:19 PM
To: David Young
Subject: RE: Preserve at Sunridge DEIR Comments

David,

Here are the answers to your questions. Let me know if you have any questions.

- | | | |
|----|--|-----|
| DY | 1. On Page 3.0-7 - Asks to verify the 1,319 AF/YR water demand for the project. In the Memo produced by MWH states the AF/YR demand for the Preserve is 1,214 AF/YR. Who is going to verify this information? | I-1 |
| JC | This is verified through an allocation request from the developer requesting the amount of water need for the development. | |
| DY | 2. Page 4.7-3 - The entire last paragraph (except for the first sentence) was circled, but there is not comment. Please clarify. | I-2 |
| JC | No comment | |
| DY | 3. Page 4.7-4 - 2nd sentence/2nd paragraph was circle, but no comment. Please clarify. | I-3 |
| JC | No comment | |
| DY | 4. Page 4.7-11 - comment "this should trigger a new WSA - provide comment." Does the Agency have any further comment in addition to stating that a new/revised WSA is required? | I-4 |
| JC | No | |
| DY | 5. Page 4.7-11 - Can you provide a short description of the allocation process, which will be added to the discussion? | |
| JC | Developer(s) request SCWA Groundwater Sufficiency Approval for a dedicated water allocation from the North Vineyard Well Field serviced by the Anatolia WTP. The request should include the total volume of water being requested (AF/Yr) as well as an itemized list of water demand projections based on the Land Use Summary of the most recent Tentative Subdivision Map for the proposed project. The demand figures should be calculated using SCWA Zone 40 Master Plan-Unit Water Demand Factors. The County then determines if the requested water allocation is in compliance with the final projected production capacity of the Anatolia WTP. Consideration is also given to the phased treatment capacity of the Anatolia WTP due to the ongoing development of the North Vineyard Well Field (as of 12/05 only three of the seven planned wells | I-5 |

1

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

JC	are operational). In addition, prior to approval of the Allocation Request, the developer(s) must also agree to and sign a North Vineyard Well Protection Agreement. The Agreement and Allocation Request then goes before the Sacramento County Board of Directors for final review and approval.	I-5 cont.
DY	6. Page 4.12-27 - Asks if the discussion is still necessary. This information was based on SCWA plans. Is this information still relevant or necessary?	
JC	This information is still relevant but not necessary. The Preserve at Sunridge will no longer require the Sunrise Douglas 2 (Suncreek) treatment facility.	I-6
DY	7. Page 4.12-28 Please update the North Service Area information in Table 4.12-6.	I-7
JC	Please remove table 4.12-6	

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter I

JUSTEN COLE, SACRAMENTO COUNTY WATER AGENCY

- RESPONSE I-1:** The Commentor asks to verify the 1,319 AF/YR water demand for the project. The projected annual water demand for the Preserve at Sunridge is approximately 1,493 acre-feet per year Af/yr, which includes an additional 7.5 percent to account for system losses (see Section 4.0 "Errata" for these minor changes). The Commentor adds that the project's allocation is verified through an allocation request from the developer requesting the amount of water need for the development.
- RESPONSE I-2:** The Commentor was asked to clarify earlier comments submitted regarding the draft EIR. No further comments were submitted; therefore, no response is required.
- RESPONSE I-3:** The Commentor was asked to clarify earlier comments submitted regarding the ADEIR. No further comments were submitted; therefore, no response is required.
- RESPONSE I-4:** The Commentor states that SCWA has no further comment other than a new/revised Water Supply Assessment is required.
- RESPONSE I-5:** [The Commentor requested that a short description of the process implemented by SCWA for allocating water to specific development projects be included in the Draft EIR.

The following text has been added to Section 4.7 "Hydrology and Water Quality", page 4.7-19 of the Draft EIR.

"SCWA implements the following process for allocating water to new development projects within its service area: The Developer(s) request SCWA Groundwater Sufficiency Approval for a dedicated water allocation from the North Vineyard Well Field serviced by the Anatolia WTP. The request should include the total volume of water being requested (AF/Yr) as well as an itemized list of water demand projections based on the Land Use Summary of the most recent Tentative Subdivision Map for the proposed project. The demand figures should be calculated using SCWA Zone 40 Master Plan-Unit Water Demand Factors. SCWA then determines if the requested water allocation is in compliance with the final projected production capacity of the Anatolia WTP. Consideration is also given to the phased treatment capacity of the Anatolia WTP due to the ongoing development of the North Vineyard Well Field (as of 12/05 only three of the seven planned wells are operational). In addition, prior to approval of the Allocation Request, the developer(s) must also agree to and sign a North Vineyard Well Protection Agreement. The Agreement and Allocation Request then goes before the Sacramento County Board of Directors for final review and approval."

- RESPONSE I-6:** The Commentor states that discussion of the Sunrise Douglas 2 (SunCreek) Groundwater Treatment Plant on page 4.12-27 is still relevant but not necessary, as the Preserve at Sunridge will no longer require the Sunrise Douglas 2 (SunCreek) treatment facility for water service. The Commentor is referred to Section 4.0

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

(Errata) of this FEIR, which includes minor edits to the Draft EIR. These minor modifications from comments received during the Draft EIR public review period. The revisions and minor edits in Section 4.0 (Errata) do not result in new significant environmental impacts, do not constitute significant new information, nor alter the conclusions of the environmental analysis. No further response is required.

RESPONSE I-7: The Commentor recommends that **Table 4.12-6** be deleted, as SCWA is in the process of updating its Water Supply Infrastructure Plan for the North Service Area of Zone 40. **Table 4.12-6** has been deleted on page 4.12-29 of the Draft EIR.

**TABLE 4.12-6
ANTICIPATED MAXIMUM DAY WATER DEMANDS IN THE NSA**

Demand areas	Maximum day demand (gpm)
Cal Am Replacement Supply	2,500
American States Replacement Supply	3,400
Rio Del Oro (Cal Am)	4,857
Rio Del Oro (Zone 41)	6,045
Anatolia	2,926
Montolena (includes DJ Enterprises)	849
The Preserve ¹	1,665
Sunridge Park	873
Suncreek ²	4,471
East Side Properties ³	2,232
North Douglas I and II	520
Sunrise Douglas Community Plan	5,357
Lot J4	321
Mather New Growth	6,667
American States (shut-off in future)	1,000
Total	43,683

Notes: ¹ Sunridge Park

² Sunrise Douglas 2

³ Douglas 104, Galaxidas Property, Grantline 208, and Pappas Property.

⁴ Cresleigh Homes

Letter J



California Regional Water Quality Control Board
Central Valley Region



Alan C. Lloyd Ph.D.
Secretary for
Environmental
Protection

Sacramento Main Office
Internet Address: <http://www.swrcb.ca.gov/~rwqcb5/home.html>
11020 Sun Center Drive, Suite 200, Rancho Cordova 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4797

Arnold Schwarzenegger
Governor

15 November 2005

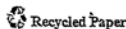
Hillary Anderson
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

DRAFT ENVIRONMENTAL IMPACT REPORT, THE PRESERVE AT SUNRIDGE, CITY OF RANCHO CORDOVA (SCH#2004092051)

Thank you for the opportunity to review the subject document. Regional Board staff reviewed it for water quality issues and present the following comments:

1. Section 4.3, Human Health. This section should contain a discussion of the potential human health implications due to arsenic in soils at the project location as it relates to residential and construction exposures. Similar soils north of Douglas Road have been found to contain an average background concentration of arsenic of 5.35 mg/kg and a maximum background concentration is 15.6 mg/kg. The California-modified Preliminary Remediation Goal, or PRG (the concentration below which there is estimated to be no unacceptable adverse affects), is 0.062 mg/kg for an assumed residential exposure. The average background concentration is nearly two orders of magnitude greater than the PRG. J-1
2. Page 4.3-2, Potential On and Offsite Soil and/or Groundwater Contamination. For clarification purposes, the Inactive Rancho Cordova Test Site, located just north of Douglas Road, is not part of the Aerojet Superfund Site. The groundwater and soil pollution at the IRCTS is due to past rocket-testing activities by McDonnell-Douglas and Aerojet-General Corporations. Solvents, including trichloroethylene (TCE), and perchlorate in groundwater have been found to extend south of the IRCTS into the Sunrise Douglas Development. McDonnell-Douglas and Aerojet are in the process of completing a groundwater extraction and treatment system to mitigate the groundwater pollution. The treatment facility will be located adjacent to the road into the Beta Complex on the IRCTS, just north of Douglas Road and Anatolia I. The treatment facility near Sunrise Boulevard/Folsom South Canal will not be constructed. (Page 4.7-10 contains a better description than that found in Section 4.3) J-2
3. Page 4.7-10. The IRCTS contamination/remediation is not subject to USEPA oversight. As currently proposed, the Alpha and Alpha plumes will both be contained and treated at a the Alpha treatment systems location. J-3

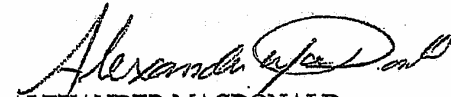
Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.



4. Section 6.0, Alternatives Analysis. Alternative 3, Aquatic Resource Habitat Alternative should be selected as the project. Alternative 3 preserves a greater number of wetlands/vernal pools, as well as, a majority of the Morrison Creek channel in the project area. Cumulatively, the proposed project, together with other approved and proposed projects would eliminate over 75% of existing vernal pools and 70% of the existing annual grasslands within the Laguna Formation. Preservation of a greater portion of those valuable resources should have a greater priority than is currently provided. Alternative 3 comes closest to meeting the criteria and recommendations presented in the letters from the United States Fish and Wildlife Service, United States Army Corps of Engineers and United States Environmental Protection Agency. It would appear that project objectives and existing community plans were developed without understanding the environmental issues at the project location.

J-4

If you have any questions regarding this matter, please call me at (916) 464-4625.



ALEXANDER MACDONALD
Senior Engineer

cc: Justin Cutler, US Army Corps of Engineers, Sacramento
Karen Schwinn, United States Environmental Protection Agency, San Francisco
Kenneth Sanchez, US Fish and Wildlife Service, Sacramento
Department of Fish and Game, Region II, Rancho Cordova

Letter J

ALEXANDER McDONALD, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

Response J-1: The Commentor requests that Section 4.3 "Human Health/Risk of Upset" contain a discussion of the potential human implications due to arsenic in soils as it relates to residential and construction exposure.

The following text will be added to page 4.3-4 of the Draft EIR:

"The Sunrise Douglas Community Plan EIR included an analysis of the potential exposure to residual agricultural chemicals, including concentrations of arsenic, as a result of the historical agricultural practices in the Community Plan area. The SDCP EIR identified two orchards within the northerly panhandle area of the Community Plan area containing French plum and cherries that may have had lead-arsenates or other persistent organochlorine pesticides applied. The EIR recommended that surficial soil samples be conducted on these parcels and that the soil be remediated if pesticide residual are identified. The EIR also concluded that the historical grazing and dry land farming activities on the property did not include the use or application of persistent pesticides and that the potential exposure to these chemicals on the Preserve project site and in the rest of the Community Plan area was very low and highly unlikely; therefore, did not require mitigation."

RESPONSE J-2: The Commentor clarifies that the Inactive Rancho Cordova Test Site, located just north of Douglas Road is not part of the Aerojet Superfund Site. The Commentor states that McDonnell-Douglas and Aerojet are in the process of completing a groundwater extraction and treatment system to mitigate the groundwater pollution in the Community Plan area. The Commentor further adds that the new treatment facility will be located just north of Douglas Road and Anatolia I and that the treatment facility proposed near Sunrise Boulevard and the Folsom South Canal will not be constructed. Section 4.7 "Hydrology and Water Quality" of the Draft EIR contains a better description of groundwater contamination in the area than Section 4.3 "Human Health/Risk of Upset" as noted by the commentor. This comment does not address the analysis of EIR and no further response is necessary.

Response J-3: The Commentor states that IRCTS contamination/remediation is not subject to U.S. EPA oversight. The text on page 4.7-10 has been amended as follows:

"Both Aerojet and Boeing have been named as the responsible parties and have been conducting investigation and remediation of the groundwater contamination, under the supervision of the ~~U.S. EPA,~~ Central Valley Regional Water Control Board, and the Department of Toxic Substances Control."

Response J-4: The Commentor requests that Alternative 3 "Conceptual Level Strategy" be selected as the project and adds that it comes the closest to meeting the criteria and recommendations in the letters from the U.S. EPA, USFWS, and the USACOE. The comment does not address the adequacy of the

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Draft EIR; however, will be forwarded to the City's decision makers for consideration. Additionally, the Commentor is referred to Master Response – Biological Resources for a further discussion regarding the Conceptual Level Strategy.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

FROM : Carol Witham

Letter 1
FAX NO. : 9164525440

Oct. 31 2005 02:26PM P1

California Native Plant Society

2707 K Street, Ste. 1 • Sacramento, CA 95816-5113 • (916)447-2677 • FAX (916)447-2727

October 31, 2005

Sharon Kelso
Planning Department
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, 95670

RECEIVED
OCT 31 2005

VIA FAX: 916-853-1691

BY:.....

Subject: Draft Environmental Impact Report for
The Preserve at Sunridge
Posted on the City of Rancho Cordova, Planning Department Website

Dear Planning Department:

I would like to call to your attention that the above referenced DEIR posted on your website is woefully incomplete for the purposes of informing the public of the environmental impacts of the proposed project. Specifically:

- There is no transmittal letter indicating the date it was made available for public review, the review period, the clearinghouse number, where hard copies are available, or where supplemental information (reports referenced in the DEIR) can be viewed.
- The DEIR lacks a title page and table of contents.
- The DEIR contains none of the maps and figures referenced in the text.
- There are no appendices, or indication of whether or not there should be appendices.

1-1

To remedy this situation, I request that the City of Rancho Cordova, Planning Department take the following steps:

- Post a full and complete version on the website.
- Reissue the notice of availability both on the website and by mail that the DEIR has been reissued.
- Extend the comment period to account for the document's lack of availability on the website.

Thank you,



Carol W. Witham, President
1141 37th Street
Sacramento, CA 95816
cwitham@cnpss.org

NOV 3 2005



Dedicated to the preservation of California native flora



3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

LETTER 1

CAROL W. WITHAM, CALIFORNIA NATIVE PLANT SOCIETY

RESPONSE 1-1: The Commentor states that the DEIR posted to the City's website was incomplete and lacked key elements of the document. An electronic posting of the DEIR is not required under CEQA; however, the City provided the on-line version of the Draft EIR to enable more citizens to review and submit comments on the document. Hard copies of the Draft EIR (Volume I) and the Technical Appendices (Volume II) were available for public viewing at Rancho Cordova City Hall and the Rancho Cordova Library. The Draft EIR was posted on the City's website as a PDF file on October 19, 2005. The information was updated after City staff received a phone call and comment letter from the Commentor informing the City that the document was incomplete. The Draft EIR (Volume I) was re-posted on the City's website on November 2, 2005, with the review period, the State Clearinghouse Number, where the document is available for public review, the table of contents, and all figures. There are several references to the technical appendices throughout the DEIR; however, the technical appendices were not posted on the website version of the DEIR due to the large size. The technical appendices were and still are available, however, at the Rancho Cordova Library and the Rancho Cordova City Hall (the addresses and phone numbers for both locations were provided in the Notice of Availability). The City followed all noticing requirements for CEQA, including noticing in the Sacramento Bee, noticing through the State Clearinghouse, and posting a notice at Rancho Cordova City Hall. The City sent hard copies of the Draft EIR to all local, State and federal agencies with interest in the project or permitting/approval authority over the project. Additionally, hard copies were sent to interest groups who requested copies and other interested parties. The City provided the California Native Plant Society with a hard copy of the Draft EIR (at no cost) as well as a CD-ROM version of the Draft EIR. The City complied with all requirements and provisions as set forth under the California Environmental Quality Act in noticing the Preserve at Sunridge Draft EIR. As previously indicated, an electronic posting of the DEIR is not required by CEQA; the Commentor had adequate time to review the Draft EIR and provide comments. For these reasons, the Notice of Availability was not reissued and the comment period was not extended.

Letter 2

California Native Plant Society

December 1, 2005

Hilary Anderson, Environmental Coordinator
City of Rancho Cordova Planning Department
3121 Gold Canal Drive
Rancho Cordova, CA 95670
preserveatsunridge@cityofranhocordova.org

Subject: The Preserve at Sunridge, Draft Environmental Impact Report (DEIR)
SCH: #2004092051

Dear Ms. Anderson:

The California Native Plant Society (CNPS) is a statewide non-profit organization of some 10,000 scientists, educators, and laypeople dedicated to the conservation and understanding of the California native flora. As a science-based conservation organization, we believe that good land use decisions must be accompanied by a thorough assessment of the environmental impacts as required by the state and federal Endangered Species Acts, the Clean Water Act, the National Environmental Policy Act, the California Environmental Quality Act, and other resource protection laws.

The Sacramento Valley Chapter of CNPS has been highly involved in participating in and commenting upon land use decisions at all levels that affect vernal pool ecosystems in Sacramento County. The Sacramento Valley Chapter of CNPS has long viewed the region that was ultimately proposed for the Sunrise-Douglas Community Planning Area as the "Yellowstone" of vernal pool landscapes in Sacramento County. Due to its extraordinary biological resources, CNPS lobbied extensively to exclude this area from future development during the last Sacramento County General Plan update. Geospatial analysis independently conducted for the developing South Sacramento Habitat Conservation Plan has confirmed that this region is unique within Sacramento County from the perspective of both density and diversity of vernal pools present, and in listed species presence.

The following comments on DEIR are based on our knowledge of the wetland and endangered species resources in the vicinity of the proposed project and our understanding of the resource protection laws and their associated public review process.

General Comments:

- **Inadequate Public Availability of Document:** Initial posting of the DEIR on the City of Rancho Cordova's website was wholly inadequate. Only the text of the document was posted, and did not include figures, the notice of availability, or instructions for submitting comments. When I contacted the city in an attempt to remedy the situation, I was given the run-around about the documents availability at libraries, etc. and given the option of purchasing a hardcopy. After several additional phone calls, I requested and received a CDROM copy of the document. The website was eventually updated to

2-1



Dedicated to the preservation of California native flora

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include the entire document, but that did not occur until well within the 30 day comment period required by CEQA.

The September 10, 2004 Notice of Preparation is incomplete on the CDROM copy of the document. All even pages are missing. The comment letters submitted in response to the NOP appear to have been shuffled. In particular, EPA’s letter and referenced attachments are not in sequential order and other letters have been interspersed.

2-1
cont.

- Supporting Biological Documents Are Not Included as Appendices: Numerous consultants’ reports have been referenced in the DEIR, but those reports have not been made available to the public for review. This precludes the concerned public from adequately assessing the accuracy and validity of those reports with respect to whether or not the DEIR discloses the full environmental impact of the proposed project.

As an illustrative example, Table 4.9-2 (Pages 4.9-7 and 4.9-8) does not include many of the smaller and more cryptic species known to occur in the area and habitat. Note that the rare plants that could occur on the site fall into the small and cryptic category and would have been overlooked by inadequate surveys or surveys conducted by consultants not familiar with the local flora. Additionally, the table appears to contain species not known to occur in the vicinity in this plant community.

2-2

CNPS also feels that focused special-status plant surveys are entirely inadequate for the purposes of analyzing site conditions and ensuring that all special-status plant species are properly documented. By performing only a focused survey for taxa with a potential to occur, the consultant may have overlooked other rare species that have not previously been recorded in the vicinity.

Without access to the entire consultant’s report, I am inclined to judge the plant surveys as inadequate based on the information listed in Table 4.9-2. Thus, the DEIR does not appropriately disclose impacts to and provide mitigation for plant species which can be considered rare, threatened or endangered.

- Appropriate Special-Status Species Surveys Have Not Been Conducted: No surveys have been conducted for western spadefoot. Surveys for listed branchiopods appear to have been at best qualitative instead of quantitative. There is no discussion of California linderiella in the document even though the Department of Fish and Game specifically asked for that species to be addressed in the EIR. The DEIR fails to disclose the extent of impacts to these species. The DEIR fails to provide mitigation measures to reduce impacts to these species to less than significant.

2-3

- Impacts Associated with Realignment of Morrison Creek Not Addressed: Other than proposing a mitigation measure that is intended to maintain downstream flows at a preconstruction rate, the DEIR does not address the environmental (biological and ecosystem processes) impacts associated with the realignment of Morrison Creek.

2-4

- Failure to Conform with the Conceptual-Level Strategy: CNPS sees the *Conceptual-Level Strategy* as the absolute minimum for on-site conservation. “The Preserve” at

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Sunridge, as proposed, does not follow even this minimum standard. Additionally, the project as proposed will fragment other proposed wetland preserves in the Sunrise-Douglas Community Planning Area and will contribute to indirect impacts on these preserves as well.

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cont.

- Undermining of the South Sacramento Habitat Conservation Plan (SSHCP): While we understand that the SSHCP has not yet been finalized and therefore impacts to it are not subject to a mandatory findings of significance under CEQA, the SSHCP is proceeding and this proposed project will severely weaken the SSHCP’s ability to provide for adequate conservation of listed species.
- Impacts to Aquatic Resources of National Importance (ARNI): This project should not and cannot proceed without a full Environmental Impact Statement (EIS) as required by the National Environmental Policy Act (NEPA). Many documents, including the U.S. Environmental Protection Agency’s comment letters on the project’s Notice of Preparation (NOP) have indicated that this area qualifies as an ARNI. We recommend suspending the current CEQA review, and the preparation of a full EIR/EIS for this project.

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Specific Comments:

- No Mitigation Measures for Western Spadefoot: Table 4.9-3 indicates that there is a high probability for western spadefoot to occur on the project site. Table 4.9-4 appears to show only listed species and does not include western spadefoot. Impacts to western spadefoot would require a mandatory finding of significance under CEQA Guidelines § 15065(a). No mitigation measures have been proposed to reduce this impact to less than significant. Note that mitigation measures for western spadefoot need to consider upland habitat as well as wetted acres. Noise and light pollution are also significant considerations for this species.
- No Mitigation Measures for California Linderiella: In their comment letter on the NOP, the Department of Fish and Game specifically requested that impacts to California linderiella be addressed in the DEIR. The document does not address this species of concern. Impacts to California linderiella would require a mandatory finding of significance under CEQA Guidelines § 15065(a). No mitigation measures have been proposed to reduce this impact to less than significant.
- Mitigation Measure 4.9.1b: Direct impact of 15.65 wetted acres should not qualify as “relatively small effects”. Use of the *Programmatic Formal Endangered Species Act Consultation on Issuance of 404 Permits for Projects with Relatively Small Effects on Listed Vernal Pool Crustaceans Within the Jurisdiction of the Sacramento Field Office, California* as the standard for mitigation for the proposed project seems inappropriate for a project with this magnitude of impacts. Elsewhere, the DEIR states that this project will destroy 5% of the local Laguna Formation vernal pools.

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The proposed mitigation and monitoring plan will also have environmental impacts but these are not addressed in the DEIR. Additionally, committing to the preparation of a

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document does not constitute mitigation. In order for the public to be fully informed of the environmental consequences (both positive and negative) of this proposed project, the DEIR should identify the proposed mitigation site and discuss the environmental impacts associated with the proposed mitigation and monitoring plan.

CNPS believes that creation of artificial vernal pools within an existing intact vernal pool grassland ecosystem is actually a negative environmental impact upon that natural system. Additionally, we are concerned that creation or restoration of mitigation vernal pools could have significant negative impacts upon the ecosystem as a whole. Translocation of propagules (seeds and cysts) for the purposes of mitigation can impact the genetic integrity of species and populations in the vicinity of the mitigation site. Should compensatory mitigation be performed on the Laguna Formation in the southeastern portion of the county, it could have significant impacts on the rare Myer’s Navarretia (*Navarretia myersii* ssp. *myersii*) which occurs in that area.

2-10
cont.

Without adequate disclosure of the mitigation and monitoring plan including its potential environmental impacts, we do not believe that implementation of MM4.9.1b will reduce impacts to listed vernal pool crustaceans to less than significant.

- Mitigation Measure 4.9.5a: Again, the potential impacts of the wetland mitigation and monitoring plan have not been disclosed. Without this information it is impossible to tell whether or not the mitigation measure will actually reduce impacts to wetlands to less than significant.
- Mitigation Measures 4.7.5 and 4.9.5b: These mitigation measures contains insufficient detail to determine whether it is actually feasible and will result in the desired mitigation. Additionally, buffering of downstream flows is not the only ecosystem function provided by this tributary to Morrison Creek. There has been no assessment of the other environmental impacts associated with realignment of the creek. Additional mitigation measures to compensate for the loss of other ecosystem functions may be required before the environmental impact of realigning the creek can be considered less than significant.
- Impact 4.9.6: This significant impact is not unavoidable. Keeping the tributary to Morrison Creek in its existing alignment and adding it to the wetland preserve as per the *Conceptual-Level Strategy* would avoid this impact.

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Summary:

CNPS feels that the current DIER is inadequate from the perspective of providing the public with necessary information related to the environmental impacts of the proposed project. As a result CNPS respectfully requests that a new document be prepared that deals with both CEQA and NEPA disclosure issues. The new EIR/EIS should address impacts to all biological resources that occur on the proposed project site. The new EIR/EIS should contain, as appendices, all consultants’ reports prepared in support of the proposed project.

2-14

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Should the City of Rancho Cordova choose to proceed with this project, CNPS urges the City Council to adopt “Alternative 3 – Aquatic Resource Habitat Alternative” as the environmentally preferable alternative to this proposed development project.

2-15

On behalf of CNPS, I appreciate the opportunity to comment on this DEIR. Please keep me informed of activities related to projects in this area that might impact vernal pool habitat.

Sincerely,



Carol W. Witham
CNPS President
1141 37th Street
Sacramento, CA 95816
(916) 452-5440
cwitham@ncal.net

Cc: Other interested parties

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LETTER 2

CAROL W. WITHAM, CALIFORNIA NATIVE PLANT SOCIETY

RESPONSE 2-1: The Commentor states that the Draft EIR posted to the City's website was incomplete. The Commentor is referred to Response to Comment 1-1 regarding the public availability of the document.

RESPONSE 2-2: The Commentor states that numerous technical reports were cited and served as the basis of the DEIR analyses but were not circulated with the documents. The commenter states the concerned public is therefore precluded from determining the accuracy and validity of the reports. CEQA Guidelines Section 15148 encourages that EIRs not be excessive in size with technical information and that such information be cited. Further, CEQA Guidelines Section 15087(c)(5) (Public Review of Draft EIR) states, "*The address where copies of the EIR and all documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency's normal working hours.*" Given the size and volume of technical materials used in preparing the Draft EIR, the project applicant's technical studies were referenced and summarized in the DEIR text rather than provided within the Draft EIR. These reports were available to review during the Public Comment Period, as indicated in the Notice of Availability, at the City of Rancho Cordova Planning Department and the Rancho Cordova Library. The Notice of Availability for the project (dated October 18, 2005) included locations and addresses where technical materials were available for public review. The NOA read as follows,

"Copies of the Draft EIR are available for review at the following locations:

Rancho Cordova Planning Department
3121 Gold Canal Drive, Rancho Cordova, CA 95670
Phone: (916) 942-0223

Rancho Cordova Community Library
9845 Folsom Boulevard, Sacramento, CA 95827
Phone: (916) 264-2770

This Draft EIR may also be reviewed on the City's web site (on the Environmental Review page) at:

http://www.cityofranhocordova.org/html/planning_current_projects.html

after October 18, 2005. Referenced material used in the preparation of the Draft EIR may be reviewed upon request to the Planning Department."

The Commentor further states that **Table 4.9-2** does not contain "smaller or more cryptic" species known to occur in the area which would have been overlooked in inadequate surveys / unqualified surveyors. The Commentor concludes that without review of the technical report, and inability to determine the adequacy of the work, the DEIR does not appropriately disclose impacts and mitigation for rare, threatened or endangered plant species. Please see Response 2-2 regarding the availability of the technical reports. CEQA Guidelines Section 15148 encourages that EIRs not be excessive in size with technical information and that such information be cited. Further, CEQA Guidelines Section 15087(c)(5) (Public Review of Draft EIR) states, "*The address where copies of the EIR and all*

documents referenced in the EIR will be available for public review. This location shall be readily accessible to the public during the lead agency's normal working hours." Given the size and volume of technical materials used in preparing the Draft EIR, the project applicant's technical studies were referenced and summarized in the DEIR text rather than provided within the Draft EIR. A summary of the methodologies employed during the plant studies is provided on page 4.9-20 of the DEIR and are consistent with the DFG Guidelines for Assessing the Effects of Proposed Project on Rare, Threatened and Endangered Plant and Communities (DFG, 2000). The level of detail and/or methodology used in the plant studies for the project is consistent with CEQA and the CEQA Guidelines, which do not dictate or suggest an alternative methodology or level of detail. The CEQA Deskbook states "Lead Agencies are free to develop or utilize any methodology regarding assessment of the environmental effects of a proposed project" (CEQA Deskbook, 1999 (Second) Edition, Ronald E. Bass, Albert I. Herson, Kenneth M. Bogdan, Solano Press Books, Point Arena, California). In general, neither CEQA nor the Guidelines contain any specific requirement for how or at what level of detail impacts must be evaluated." The comment does not provide sufficient information regarding the specific perceived deficiencies in the survey methodologies or species of question to provide further response.

RESPONSE 2-3: The Commentor states that no surveys have been conducted for western spadefoot and the surveys for listed branchiopods appear to be qualitative instead of quantitative. In addition, there is no discussion of California linderiella. The Commentor adds that the Draft EIR fails to disclose the extent of impacts to these species or provide mitigation to reduce the impact to less than significant. The comment is correct with regard to quantitative surveys for the identified species. In the analysis, the species were presumed to be present throughout all the vernal pools on-site. The City believes that the habitat approach, by which the presence of a species is assumed rather than proven, provides substantial evidence that would support the conclusions of the impact analyses, and results in a level of environmental protection no less rigorous than what would follow an empirical verification of species presence in the habitat. Substantial evidence is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (CEQA Guidelines, § 15384, subd. (a); San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 722.) **Table 4.9-3** discusses the potential for western spadefoot toad on the project site. California linderiella was inadvertently omitted from this table, which has been amended to include California linderiella. The reader is referred to Section 4.0 (Errata) where the recommended changes are reflected. All biological surveys and other material referenced in the Draft EIR have been, and remain, available for public review at the City of Rancho Cordova City Hall. California linderiella and western spadefoot toad are presumed to be present in all potential habitat on the site. Impacts to California linderiella and western spadefoot toad and other non-listed wildlife species are enveloped in **Impact 4.9.3**. The impact analysis provides examples of species that potentially occupy this area but the list of species is not intended to be exhaustive. Mitigation measures **MM 4.9.1b**, **MM 4.9.2a** and **MM 4.9.2b** ensure that the project will result in a no-net loss of vernal pools and provides minimization and compensatory standards to fully mitigate indirect effects to vernal pools and seasonal wetlands (habitats for western spadefoot and

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California linderiella). Additionally, the analysis under **Impact 4.9.3** has been revised to include these species (See Section 4.0 (Errata)).

RESPONSE 2-4: The Commentor states that impacts associated with the realignment of Morrison Creek were not addressed (i.e., biological and ecosystem processes). This assertion is inaccurate, as these issues were indeed fully addressed. The Commentor is referred to **Impact 4.9.6** Effect to Movement Corridor, which discusses the project's effects on vernal pool tadpole shrimp habitat and states that the project as designed will not provide an opportunity for vernal pool tadpole shrimp to move outside the existing channel Morrison Creek, and **Impact 4.9.5**, which discusses the impacts to the tributary of Morrison Creek as a "Waters of the US". Additionally, mitigation measure **MM 4.9.5b** requires that the post-project peak flow conditions into the off-site section of the ephemeral drainage (tributary of Morrison Creek) are equivalent in periodicity, seasonality, volume, and flow velocity to pre-project conditions and that the project shall result in no-net change to peak flows into the offsite tributary of Morrison Creek to retain the natural regime of the tributary. The DEIR clearly states on page 4.9-39 that the realignment of Morrison Creek will result in significant and unavoidable impacts and the only feasible mitigation is to keep the creek channel intact. It is unclear what additional biological or ecosystem processes are not addressed in the Draft EIR; therefore, no further response can be provided.

RESPONSE 2-5: The Commentor states that the project does not conform to the Conceptual Level Strategy and that the project as proposed will fragment other proposed wetland preserve areas in the Sunrise Douglas Community Plan area. CNPS is referred to Master Response – Biological Resources for a further discussion on the Conceptual Level Strategy and **Impact 4.9.9** for a discussion of the impact of the proposed project on habitat fragmentation. Additionally, Reader is referred to Section 4.9, **Impact 4.9.11**, page 4.9-45, which addresses this project's contribution to cumulative impacts on biological resources in the Sunrise Douglas Community Plan area.

RESPONSE 2-6: The Commentor states that the project will undermine the goal of the South Sacramento Habitat Conservation Plan (SSHCP) to provide adequate conservation of listed species. The Commentor is referred to **Impact 4.9.8** "Conflict with Adopted Habitat Conservation Plan and Natural Community Conservation Plan", page 4.9-39, which fully discloses and discusses the project's conflicts with applicable conservation plans. Additionally, it is important to note that the SSHCP is not an adopted plan, and therefore has no legal or regulatory status, and the species' of concern in the SSHCP was addressed in Section 4.9 "Biological Resources" of the Draft EIR. (See also *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1145 (CEQA does not require lead agency to consider proposed projects' effects on draft habitat conservation plans).)

RESPONSE 2-7: The Commentor states that the project should not proceed without a full Environmental Impact Statement, as required by the National Environmental Policy Act (NEPA), due to impacts on Aquatic Resources of National Importance (ARNI). The Commentor recommends suspending the current CEQA DEIR review and recommends a full EIR/EIS for the project. The comment does not specifically address the DEIR analyses and will be forwarded to the decision makers for their consideration. City staff notes that nothing in CEQA or its federal

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analogue, the National Environmental Policy Act (NEPA), requires that state and federal environmental review processes be combined for projects that require compliance with both statutory schemes. Rather, federal and state or local lead agencies have the option, but not the obligation, of combining their respective documents. (See also Response 2-14.) Additionally, While, it seems likely than an EIS will be required for the project, the U.S. Army Corps of Engineers (USACE) has not made a formal determination about requiring an EIS for the Preserve at Sunridge project. The project applicants have submitted an application to USACE for a permit under Section 404 of the Clean Water Act. However, it has not been found to be "complete" by USACE to date. The 404 process is a federal permitting process and not a local entitlement process, whereas an EIR is required for the City's entitlement process. Rancho Cordova is required to prepare an EIR for the project because it was determined through the preparation of an initial study that the project would result in significant and unavoidable impacts. Additionally, CEQA Guidelines Section 15222 (Preparation of Joint Documents) states, "If a Lead Agency finds that an EIS or Finding of No Significant Impact for a project would not be prepared by the federal agency by the time when the Lead Agency will need to consider an EIR or Negative Declaration, the Lead Agency should try [emphasis added] to prepare a combined EIR-EIS or Negative Declaration-Finding of No Significant Impact." The CEQA Guidelines say that a Lead Agency "should try" to prepare a joint document rather than using stronger words that would require a CEQA Lead Agency to work with a federal agency to prepare a joint document. The City started the CEQA process for the proposed project in September 2004 (when the first Notice of Preparation was released), which was prior to the applicants submitting a 404 permit application to USACE.

RESPONSE 2-8: The Commentor states that there is a high probability for western spadefoot to occur on the project site, but it is not listed in **Table 4.9-4** entitled Endangered, threatened or rare plants and animals potentially occurring in the Preserve at Sunridge project site. The commenter states that noise and light pollution are significant consideration for this species. Mitigation measures **MM 4.9.1b**, **MM 4.9.2a** and **MM 4.9.2b** ensure that the project will result in a no-net loss of directly effected vernal pools and provides minimization and compensatory standards to fully mitigate indirect effects to vernal pools and seasonal wetlands (habitats for western spadefoot and California linderiella). Implementation of these measures will ensure that effects to western spadefoot (including noise and light pollution) are less-than-significant. In addition, Mitigation Measure **MM 4.9.1b** ensures that the project applicant mitigates the impacts to vernal pools and other seasonal habitats in such a manner that there will be no net loss of habitat (acreage and function) for these species in the Laguna Formation following implementation of the project. In order to achieve no-net loss of function, the prerequisite upland habitat that supports the pool hydrology and upland habitat components for pool biota must preserved. Reader is also referred to Response 2-3.

RESPONSE 2-9: The Commentor states that the EIR does not address the impacts to California linderiella as requested by DFG. In the DFG comment letter received by the City, California linderiella was identified as a species that occurred in the vicinity. Specific concerns for impact analyses were limited to general wildlife and habitat, vernal pools, and special status species, including listed species and cumulative effects. Mitigation measures **MM 4.9.1b**, **MM 4.9.2a** and **MM 4.9.2b**

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ensure that the project will result in a no-net loss of vernal pools and provides minimization and compensatory standards to fully mitigate indirect effects to vernal pools and seasonal wetlands (habitats for California linderiella).

RESPONSE 2-10: The Commentor states that the direct impact of 15.65 wetted acres should not qualify as relatively small effects and that using the Programmatic Formal Endangered Species Act Consultation on Issuance of 404 Permits for Projects with Relatively Small Effects on Listed Vernal Pool Crustaceans Within the Jurisdiction of the Sacramento Field Office, California as the standard mitigation is not appropriate for a project of this magnitude. The comment misinterprets the City's intent. The City has identified the impacts to vernal pools as significant and identified no net loss of vernal acreage and function to be the performance standard for mitigation measure MM 4.9.1b. The formal USFWS Biological Opinion is provided as an example of how the performance standard may be achieved. The Commentor states that the preparation of a mitigation and monitoring plan does not constitute mitigation. In addition, implementation of the mitigation and monitoring plan could result in undisclosed impacts (including those to Myer's Navarretia). Normally, the mere act of monitoring the implementation of mitigation would not involve environmental effects other than those associated with the underlying impact being mitigated or the mitigation measures addressed to the impact. However, the creation of the off-site vernal pools and wetlands may result in water quality, traffic/circulation, noise, air quality, noise, and biological impacts. Stormwater runoff could impact surface water quality during site grading and construction activities that remove natural vegetation, which acts to slow runoff, and expose soil to erosion. In addition, erosion potential is also influenced by the type of soils and their rate of permeability. The combination of these factors affect the potential for erosion and the transport of sediments away from the project area and into local water features and channels, which could increase sediment loads and substantially degrade water quality in adjacent drainages. Additionally, sediment-laden runoff that flows into adjacent vernal pools can substantially change the micro-topography within the pools and thus impact their hydrology and sensitive species habitat. Additionally, pollutants such as oil and gas transported to the construction site and used in construction machinery has the potential for contaminating sensitive species habitats and local waterways if an accidental discharge were to occur. Although short-term, the small increase in traffic related to traveling to the creation site and delivery of construction materials may temporarily impact circulation in the immediate vicinity. Off-site creation activities may affect air quality. Types of construction related emissions include, but are not limited to, grading, road paving, excavation, exhaust from construction equipment and other earth moving activities. These emissions are temporary in nature and not permanent. One of the pollutants of primary concern during construction activities is fugitive dust/Particulate Matter-10 (PM10) Construction related emissions can cause increases in localized concentrations of PM10, as well as affect compliance with ambient air quality standards on a regional basis. Particulate matter emissions from construction activities can lead to adverse health effects as well as nuisance concerns such as reduced visibility and soiling of exposed surfaces. During the construction phase of the vernal pool and wetlands, noise from construction activities adds to the noise environment in the creation site's immediate vicinity. In addition, noise is also generated during construction by increased traffic on area roadways, particularly with truck traffic

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associated with the transport of heavy materials to and from the creation site. However, these noise increases would be temporary in nature and would occur during daylight hours.

CEQA Guidelines Section 15097(a) (Mitigation Monitoring or Reporting) reads, *"This section applies when a public agency has made the findings required under paragraph (1) of subdivision (a) of Section 15091 relative to an EIR or adopted a mitigated negative declaration in conjunction with approving a project. In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program."* The project's mitigation measures are legally binding to both the City of Rancho Cordova and the project applicant. In order to implement mitigation measures, the City is required to adopt Findings of Fact concluding that various proposed mitigation measures outlined in the EIR are feasible and have not been modified, superseded, or withdrawn. The Findings are not merely informational, but when adopted constitute a binding set of obligations that will come into effect if and when the City approves the project (Public Resources Code, Section 21081.6[b]). The mitigation measures become express conditions of approval which the City binds itself to upon project approval. The City of Rancho Cordova adopts Mitigation Monitoring and Reporting Programs (MMRPs) by Resolution. MMRPs become effective after the appeal period, which ends 10 days from the date of adoption. When the City incorporated, it adopted the Sacramento County Code and all of the ordinances therein. Chapter 20.02 of Title 20, Environmental Protection, of the Code established a Mitigation Monitoring and Reporting Program (MMRP) Ordinance. This Ordinance, currently in effect in the City, requires that mitigation measures are not only adopted, but also enforced, and requires that adopted MMRPs are recorded against project properties. It establishes the responsibilities of the Environmental Coordinator as not only preparing but also ensuring "compliance with adopted Mitigation Monitoring and Reporting Programs". This Ordinance also establishes a nexus for collecting fees to ensure that there is always funding available for a position that enforces the MMRPs. Additionally, it allows civil and criminal penalties to be administered to persons who do not comply with adopted MMRPs. The City's Planning Department has a Mitigation Monitoring Division that reviews every set of improvement plans for a project and compares them to the MMRP and Conditions of Approval. If a mitigation measure has not been satisfied, the plans are not forwarded to the Public Works Director for approval. Additionally, the Mitigation Monitoring Division conducts periodic site inspections and coordinates with other regulatory agencies to ensure that all mitigation measures are carried out to their full extent. This approach ensures that full compliance with adopted mitigation is reached for every project in the City.

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The Commentor states the CNPS position that creation of artificial pools within intact sites creates a negative impact upon the natural system. The City acknowledges the CNPS position on vernal pool creation and restoration and that vernal pool creation and restoration is a controversial issue among conservationists and biologists. At the same time, it is also true that not all knowledgeable biologists or other interested parties share these views. In other words, reasonable minds can differ on this subject matter. On this issue, the City relies on the expertise of the primary resource agency charged with the protection and recovery of the species, the USFWS, which has identified creation and restoration as an element of the listed vernal pool species recovery (USFWS 2004).

Although the construction activities involved in the creation of off-site vernal pools and wetland could result in temporary and short-term water quality, traffic/circulation, noise, air quality, and biological impacts. The mitigation measures identified in the Draft EIR are also applicable to the vernal pool and wetland creation site. Mitigation measure **MM 4.9.2b** has been revised (see underline below) to ensure that the project's Stormwater Pollution Plan (SWPPP) is implemented during the creation of the off-site vernal pools and wetlands. Additionally, a new mitigation measure **MM 4.9.2c**, which is provided below, will be added to page 4.9-35 the Draft EIR. Implementation of the **MM 4.9.2c**, which addresses the potential impacts of the proposed off-site creation activities, would ensure that the biological impacts are reduced to less than significant.

"MM 4.9.2b A standard set of best management practices shall be employed when working in areas within 250 feet of off-site vernal pool habitat and on-site preserved vernal pool habitat. A Stormwater Pollution Prevention Plan (SWPPP) shall be developed and implemented during construction of the proposed project and the creation of the vernal pools and wetlands at the off-site creation site. The plan shall include the following measures to avoid and minimize impacts to all wetlands. These measures, and all other permit requirements, will be included in contract specifications and will be implemented by the contractor.

1. Implement erosion control measures during construction. Installation of temporary erosion control devices will be an integral part of construction. Sedimentation fences, as detailed in the drawings, will be used to contain polluted or turbid runoff from the site of work. Other methods of temporary erosion control, including but not limited to hay bale check dams, shall be employed to protect riparian areas, streams and water courses, and all other areas susceptible to damage from runoff. Hay bale check dams will be installed as specified and as detailed in the drawings or as directed by the contractor. Erosion control devices will be installed concurrently with construction earthwork.
2. Remove cover vegetation as close to the time of construction as practicable.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

3. Confine construction equipment and associated activities to the construction corridor.
4. Reestablish streambank contours following construction and install permanent erosion control as needed.
5. Prohibit refueling of construction related equipment within 100-feet of the aquatic environment.
6. Maintain hazardous materials spill kits in proximity to aquatic crossings.
7. Comply with state and federal permits.
8. Perform proper sediment control.
9. Implement the spill prevention and response plan.
10. Monitor construction activities near specified drainage and riparian areas.
11. Remove all construction spoils, remaining construction materials and miscellaneous litter for proper off-site disposal.
12. Post-construction monitoring and supplemental revegetation where needed.

This measure shall be included in all project plans and specifications, and all applicable features shall be shown on project plans.

Timing/Implementation: *Submittal of plan prior to the approval of any grading plans or any groundbreaking activity. On-going during all construction and for required post-construction time periods for the project site and the off-site vernal pool and wetland creation site.*

Enforcement/Monitoring: *City of Rancho Cordova Planning Department."*

A new mitigation measure "MM 4.9.2c" has been added to Page 4.9.35 of the Draft EIR.

"MM 4.9.2c The applicant shall submit a Wetland Avoidance/Mitigation Plan to mitigate for impacts to vernal pool and seasonal wetland habitat, which describes the specific method(s) to be implemented to avoid and/or mitigate any off-site project related impacts. This detailed Wetland Avoidance/Mitigation Plan shall be prepared in accordance with the U.S. Army Corps of Engineers

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

(USACE), and the U.S. Fish and Wildlife Service (USFWS), regulations, and the City of Rancho Cordova Grading and Erosion Control Ordinance. A copy of the 404 permit and the biological opinion shall be provided to the City and the Avoidance/Mitigation Plan shall ensure the following to the satisfaction of the City:

- The location of the proposed vernal pool and seasonal wetland habitat site(s) and a detailed map of showing the acreage, distribution, and type of wetlands to be created to ensure no net loss in wetland habitat acreage, values and functions. The compensation wetlands shall be designed to, at a minimum: meet or exceed the hydrophytic conditions and operating functions of the existing wetlands proposed for impact.
- Include a monitoring plan to assess whether the compensation wetlands are functioning as intended. Specific performance standards for hydrologic, floral, and faunal parameters shall be proposed to determine success of the created wetlands. The monitoring plan shall specify the corrective measures/modifications to be implemented in the event that monitoring indicates that the performance standards are not being met.
- Include a maintenance plan for the wetland preservation/mitigation areas describing the measures to be implemented to assure that they are maintained as wetland habitat in perpetuity.
- Require that fencing be installed around all existing vernal pools that are within fifty feet of any haul route, spoil zone, stockpile zone, creation zone, or other construction area. The fencing shall be of high visibility material and limit access to the project site. Fencing shall be placed no closer than 10-feet to the delineated, verified perimeter of existing vernal pools.
- A qualified biological resources monitor, approved by the City be on the site(s) to ensure compliance with identified mitigation for the duration of all the proposed activities. The construction manager shall submit bi-annual compliance reports to City monitor for review for a period of five years.
- The vernal pool and seasonal wetland habitat site shall be surveyed by a qualified biologist no more than 30 days prior to the onset of construction for the presence of raptor and federal and state listed

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

bird nesting sites, unless it is determined that construction will occur outside of the breeding season for all species likely to occur on site or observed present. If active nesting sites are observed present all state and federal guidelines pertaining to active nesting sites shall be strictly adhered to in consultation with a qualified biologist.

- The applicant shall grant full access to the vernal pool and seasonal wetland habitat site to the City's for the monitoring of construction activities and mitigation compliance. Access shall be granted during all construction activities and the City monitor may issue stop work orders if mitigation non-compliance is identified.
- The applicant shall specify measures for reuse or disposal of excavated material is suitable for use at project site, the plan should minimize the elapsed time between excavation and reuse and provide adequate stockpile coverage and protection from wind and water erosion during the entire storage period. If excavated material is unsuitable for reuse at the project site, the plan shall include specific information regarding the eventual reuse or disposal site, transportation method(s), disposal reuse management, and schedule.
- The Avoidance/Mitigation Plan shall include a spill prevention and response plan to the satisfaction of the City.
- All disturbed areas shall be revegetated by the following methods: hydroseeding, drill seeding, or spreading of upland seed bearing soil. The method of revegetation shall be approved by a qualified wetland specialist and to the satisfaction of the City.
- Incorporate the use of non-toxic soil stabilizers according to manufacture's specifications to all inactive construction areas. Use non-toxic binders to exposed areas after cut and fill operations and hydroseed areas. The vernal pool and seasonal wetland habitat site shall be watered as directed by the City of Rancho Cordova Department Public Works and the SMAQMD with the frequency shall be based on the type operation, soil and wind exposure.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- To reduce air emissions, idling time for all construction vehicles shall be limited to a maximum of 10 minutes. Additionally, the City may educe or curtail construction during high ambient pollutant concentrations, including but not limited to, ceasing construction during peak-hour vehicular traffic on adjacent or nearby roadways. Additionally, all land clearing, grading, earth moving or excavation activities shall be suspended when winds exceed 20 mph.
- All inactive storage/stock piles are covered and that all trucks hauling dirt, sand, soil, or other loose materials shall be covered or shall maintain at two feet of freeboard (i.e., minimum vertical distance between the top of the load and top of the trailer) in accordance with the requirements of the California Vehicle Code (CVC) section 23114.

Timing/Implementation: Prior to site disturbance/grading and throughout all construction activities associated with the off-site vernal pool and creation site.

Enforcement/Monitoring: City of Rancho Cordova Planning Department."

RESPONSE 2-11: The Commentor states that potential impacts of the wetland mitigation and monitoring program were not disclosed and, without this information, it is unclear whether the mitigation proposed will reduce the identified impacts. Commentor does not provide evidence, however, that the mitigation and monitoring program would result in physical impacts. Additionally, mitigation measures **MM 4.9.2a** and **MM 4.9.2b** consist of performance standards to ensure the accomplishment of a certain level of mitigation. The use of performance is allowed under State CEQA Guidelines Section 15126.4(a) and is supported by case law (Sacramento Old City Association v. City of Sacramento [1991] 229 Cal.App.3d 1011, 1028 [280 Cal.Rptr. 478]).

RESPONSE 2-12: The Commentor states that mitigation measures **MM 4.7.5** and **MM 4.9.5b** contain insufficient detail to determine whether it is actually feasible and will result in the desired mitigation. Commentor also claims that there was no assessment of other impacts resulting from the Creek's alignment and additional mitigation may be required before realigning the creek can be considered less than significant as the buffering of downstream flows is not the only ecosystem function provided by this tributary to Morrison Creek. The Commentor is referred to Master Response – Biological Resource Analysis for a detailed discussion on the impacts associated with the Realignment of the Morrison Creek tributary. **Impact 4.9.6** addresses impacts of the creek realignment to vernal pool tadpole shrimp movement and determined the effect to be significant and unavoidable. The Commentor does not state the specific environmental effects of concern that were not addressed on the DEIR. The Commentor does not provide evidence or

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

state where the mitigation measures are insufficient, nor does the Commentor provide evidence supporting the infeasibility of the measures; therefore, an additional response cannot be provided.

RESPONSE 2-13: The Commentor states that **Impact 4.9.6** should not be significant and unavoidable and keeping the tributary to Morrison Creek in its existing alignment and adding it to the wetland preserve per the Conceptual Level Strategy would avoid this impact. Reader is referred to Response 2-4 and Section 6.0 "Alternatives" of the Draft EIR for a discussion relative to keeping the tributary to Morrison Creek in its existing alignment. By characterizing the effect as "significant and unavoidable," the City did not intend to suggest that the effect would be physically impossible to avoid under hypothetical circumstances in which the project is denied or significantly redesigned. Rather, the City used this CEQA expression as intended under the law, namely, to describe impacts of a project as proposed that cannot be rendered less than significant by potentially feasible mitigation measures.

RESPONSE 2-14: The Commentor summarized its comments, stating that the Draft EIR is inadequate from the perspective of providing the public with necessary information related to the environmental impacts of a proposed project and that a new NEPA/CEQA document be prepared to fully disclose the impacts. The Commentor also stated that the EIR/EIS should address impacts to all biological resources occurring on the project site and include all consultants reports prepared in support of the proposed project. While an EIS may be ultimately required for the project, the U.S. Army Corps of Engineers (USACE), and not the City of Rancho Cordova, is the agency that must make this decision. The 404-permit process is a federal permitting process. The USACE has not made a formal determination about requiring an EIS for the proposed project. The project applicants have submitted an application to USACE for a permit under Section 404 of the Clean Water Act. As of the date of these comments, however, the application has not been found to be "complete" by USACE. An EIR for the project was required for the local permitting authority of the City's entitlement process. Rancho Cordova is required to prepare an EIR for the project because it was determined through an Initial Study that the project may cause a significant effect on the environment. Additionally, CEQA Guidelines Section 15222 (Preparation of Joint Documents) states, "*If a Lead Agency finds that an EIS or Finding of No Significant Impact for a project would not be prepared by the federal agency by the time when the Lead Agency will need to consider an EIR or Negative Declaration, the Lead Agency should try [emphasis added] to prepare a combined EIR-EIS or Negative Declaration-Finding of No Significant Impact.*" The CEQA Guidelines say that a Lead Agency "should try" to prepare a joint document rather than using stronger words that would require a CEQA Lead Agency to work with a federal agency to prepare a joint document. The City started the CEQA process for the proposed project in September 2004 (when the first Notice of Preparation was released), which was prior to the applicants submitting a 404 permit application to USACE. The Commentor is referred to Response for 1-1, which addresses the public availability of the document.

RESPONSE 2-15: The Commentor urges the City Council to adopt "Alternative 3 – Aquatic Resource Habitat Alternative" as the environmentally preferable alternative to

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

this proposed development project. The comment is noted, and will be forwarded to the Rancho Cordova City Council for consideration and action.

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MCC 5 LEW 10:13 FROM:

Letter 3
CITY OF RANCHO CORDOVA

TO: 8531680

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4855 Hamilton Street, Sacramento, CA 95841
(916) 482-8377 - Fax (916) 483-1320
Email: ucc@arcadecreekrecreation.com

December 5, 2005

Hillary Anderson
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Subject: The Preserve at Sunridge, Draft EIR SCH: #2004082051

Dear Ms. Anderson:

These comments on the DEIR for The Preserve at Sunridge project are being provided on behalf of the Sacramento Urban Creeks Council.

We at the Sacramento Urban Creeks Council encourage the preservation, protection, restoration and maintenance of natural streams in urban environments. I have attended and commented at several of the GPAC meetings on behalf of Rancho Cordova's stream and other natural resources. I am also a member of the South Sacramento Habitat Conservation Plan Steering Committee. The Sacramento Urban Creeks Council submits the following comments on the DEIR for The Preserve at Sunridge.

We will focus our comments on elements of the DEIR related to the proposed plan for: (1) drainage discharge and conveyance; and (2) relocation of a natural tributary of Morrison Creek to the area under the power transmission lines. These comments are based on our knowledge of the stream resources in the greater Morrison Creek watershed of the proposed project and the policies and laws intended to protect them.

The proposed project violates key provisions of the General Plan of Sacramento County (Conservation Element) and draft General Plan for the City of Rancho Cordova (Natural Resources Element), which relate to the protection and preservation of natural stream corridors. Ultimately the proposed plan to relocated Morrison Creek would create a trapezoidal ditch with 3:1 side slopes, which does not purport to adequately reproduce the natural hydrogeomorphic features and functions of a natural stream, nor its biological and ecological values. This is not an unavoidable impact of this project, as demonstrated by the existence of Alternatives 3 and 4, either of which would prescribe a preferable outcome.

The hydrology of this headwater stream of Morrison Creek is dictated by the combined characteristics of soil type (and its permeability), gradient, and the natural range of stream flows from a natural landscape. These stream flows range from the small storms that occur frequently (1- to 2-year storm events) to less common flood events (5, 10, 100-year events). The natural landscape of the surrounding vernal pool prairie and its associated permeability characteristics have lead to the current meander pattern, width and depth of this creek.

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Left alone, this creek persists in a state of dynamic equilibrium, wherein it maintains a balance between the amount of sediment it picks up and deposits along its length. This equilibrium is significantly disrupted by a change in any one or more of these characteristics: soil, gradient and flows – all of which would be changed by “relocating” the stream to a different place and urbanizing its watershed. Because disruption of the natural equilibrium of an upstream tributary has secondary impacts on the equilibrium of the downstream reaches of the same stream system, failure to mitigate for these impacts will cause wide-ranging additional impacts on hydrologic and biologic functions and values of downstream reaches, including those on the property of others. Neither the primary nor secondary effects of watershed or stream modification are identified in the DEIR nor are mitigation measures proposed. The FEIR should identify and analyze impacts of this project, for example, to the more natural reaches of the stream such as at Mather Regional Park and downstream of Bradshaw Road.

The proposed detention facilities and flood water management merely “take the top off” of peak flows; they do nothing to preserve the hydrogeomorphic integrity of the stream system. Peak flows are not the flows that dictate stream channel form. Frequent low-flow events (the 1- to 2-year storm events and urban drainage patterns that mimic such small storms) constitute the channel-forming flows of any stream. Therefore, a focus only on capturing flood flows (through detention) entirely misses the long-term impact of changes in the hydrology wrought by alternation of drainage and runoff patterns that predictably accompany urban development of the watershed. Such impacts can be mitigated, however, no mitigation is prescribed in the DEIR. The FEIR should prescribe mitigation for these impacts.

3-2 cont.

One has only to look at any urban stream in Sacramento County to observe evidence of the impacts of upstream development (excess erosion, bank destabilization, channel incising, mud flats, etc) that has not mitigated for the effects of watershed hydromodification. An analysis of the full impacts of hydromodification of the watershed of the subject Morrison Creek tributary would be necessary to identify the anticipated impacts and come up with appropriate measures to mitigate for them.

To recreate this stream in a different setting, i.e., under the power lines, would require that the hydrogeomorphic characteristics of the watershed be studied, quantitatively described (through detailed hydrologic and hydraulic analysis) and replicated in the “new” setting. This DEIR does not provide any detail about how this would be accomplished and is, therefore, deficient in describing the impacts of moving the stream and the mitigation needed to compensate for those impacts.

The proposed project violates state and federal laws intended to preserve natural stream quality, functions and values. Provisions of the national Clean Water Act as promulgated through California state law and enforced by the regulatory authority vested in the State Water Resources Control Board and the Central Valley Regional Water Quality Control Board, expressly prohibit discharges of untreated urban runoff directly into “Waters of the State,” which would include the headwater tributaries of Morrison Creek. The project as described in Section 2.2 paragraph 3 of the DEIR would violate this protection from direct discharges by first relocating Morrison Creek and, then, using this “realigned [created] corridor... as a drainage channel to convey [untreated

3-3

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stormwater] flows from the proposed project and developments immediately north to the proposed detention basin and ultimately ... to the Anatolia II water quality/detention basin". Inasmuch as direct discharges to streams are expressly forbidden by state and federal law, it is inconceivable that it would be acceptable to realign and destroy the natural Morrison Creek, create a faux Morrison Creek (under the power line) and use it to receive and convey untreated runoff because it is, technically, no longer a natural stream. This would constitute a complete and unmitigated loss of the natural stream and its protections under the Clean Water Act.

3-3 cont.

The DEIR alternatives are not clearly described or illustrated. The FEIR needs to more clearly describe Alternatives 3 and 4. The creek, other proposed channel alignments and basins - along with the proposed development for those alternatives - must be depicted in text and figures that are clear, complete and understandable.

3-4

In summary, the Urban Creeks Council finds that the DEIR is inadequate in providing the public with information about the full impacts of moving Morrison Creek, discharging runoff to real Morrison Creek or the "relocated" Morrison Creek, or building within its watershed without addressing the impacts of such hydromodification on the creek both within the project and downstream of the project. Therefore, the ULCC respectfully request that an EIR/EIS be prepared to address the full impacts to the integrity of the watershed. If you have any questions, please call me at 916/454-4544.

3-5

Thank you.

Alta Tura
Alta Tura
President

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

LETTER 3

ALTA TURA, URBAN CREEKS COUNCIL, SACRAMENTO

RESPONSE 3-1: The Commentor focused her comments on 1) drainage discharge and conveyance, and 2) relocation of a natural tributary of Morrison Creek to an area under the power transmission lines. The Commentor adds that the project violates key provisions of the Sacramento County General Plan and the City of Rancho Cordova Interim General Plan, which relate to the preservation of natural stream corridors, and states that the proposed drainage facilities (i.e., trapezoidal ditch) does not purport to adequately reproduce the natural hydrogeomorphic features and functions of a natural stream or its ecological or biological values. Additionally, the Commentor states that the realignment is not unavoidable, as demonstrated by the existence of Alternatives 3 and 4. The project could not be built as proposed if the Morrison Creek corridor was left in its natural alignment; therefore, the impact was found to be significant and unavoidable. The Commentor is referred to mitigation measures **MM 4.7.5** and **MM 4.7.8**, which state that the improvements are necessary in order to ensure that post-development peak (100-year) flows do not exceed existing peak flows and do not exceed the capacity of the two Folsom South Canal over-chutes at Lower Morrison Creek. Additionally, the Commentor is referred to Master Response – Biological Resource Analysis for a further discussion on the project’s impacts associated with the realignment of Morrison Creek. (See also Response 2-13.) The Commentor is correct that the proposed project would be inconsistent with the Sacramento County General Plan and the Rancho Cordova Interim General Plan goals and policies related to preserving natural creek corridors. CEQA Guidelines Section 15125(d) requires each technical section of the EIR to be evaluated for consistency with applicable general plans and regional plans. However, a project is not required to be consistent with every General Plan policy. Additionally, the Rancho Cordova interim goal NR.3 and policy NR.3.4 on preserving natural stream corridors in their natural state is from the Interim General Plan, which has not been adopted by the City Council. Interim policies are subject to change.

RESPONSE 3-2: The Commentor describes the dynamic equilibrium of Morrison Creek and how disruption will result in site-specific and downstream impacts and adds that neither the primary nor secondary effects of watershed or stream modification are identified in the DEIR, and that no mitigation measures are proposed to mitigate this effect. The Commentor states that due to problems related to the hydrology of Morrison Creek, the hydrogeomorphic characteristics of the watershed should be studied, quantitatively described, and replicated in the “new” setting. Additionally, the Commentor notes that the DEIR is deficient in describing the impacts of moving the stream and the mitigation needed to compensate for those impacts. As indicated in pages 4.7-38 through 4.7-42 and under **Impact 4.7.5**, the full impacts of hydromodification of the watershed were considered in the drainage facilities for the proposed project, which were developed using SACPRE and HEC-1 100-year (12 hour) and the 100-year (10 day) hydrographs, which are consistent with Sacramento County Department of Water Resource Hydrology Standards. HEC-1 is a very flexible program for modeling the rainfall-runoff response of a watershed. This program was developed by the Hydrologic Engineering Center of the Corps of Engineers at

Davis, California. SACPRE is a data preprocessor that aids the drainage system designer in compliance with HEC-1 modeling. The HEC-1 input and output data, SACPRE data, and land use summaries are included in the Preserve Drainage Study, which part of the DEIR (included as **Appendix 4.7** to the DEIR). Additionally, **Impact 4.9.5** discloses the project's loss of jurisdictional waters and mitigation measures **MM 4.9.5a** and **MM 4.9.5b** requires that the post-project peak flow conditions into the off-site section of the ephemeral drainage (tributary of Morrison Creek) are equivalent in periodicity, seasonality, volume, and flow velocity to pre-project conditions. The project is being required to result in no-net change to peak flows into the offsite tributary of Morrison Creek. Additionally, the Commentor is also referred to Master Response – Biological Resource Analysis, for a further discussion on the project's drainage impacts resulting from the realignment of Morrison Creek.

RESPONSE 3-3: The Commentor contends that the project violates state and federal laws intended to preserve natural stream quality, functions and values and adds that the project would constitute a complete and unmitigated loss of the natural stream and its protections under the Clean Water Act. Commentor is referred to **Impact 4.7.2**, pages 4.7-3 through 4.7-33 of the Draft EIR, which discloses the project's surface water quality impacts, and mitigation measures **MM 4.7.2a** through **MM 4.7.2d** (see page 4.7-32 and 4.7-33), which reduce the impacts to less than significant. **Impact 4.7.4** (see page 4.7-37 through 4.7-38) addresses the project's construction-related water quality impacts, and mitigation measure **MM 4.7.4** contains provisions to reduce the impacts to less than significant. Additionally, the Draft EIR fully discloses the project's drainage plans and potential impacts (see **Impact 4.7.5**), and proposes mitigation measures (see **MM 4.7.5**) to reduce this impact to less than significant. The Commentor is also referred to Master Response – Biological Resource Analysis for a further discussion on the realignment of Morrison Creek. City staff disagrees that the project will violate any state and federal laws, and notes that the applicants must obtain federal wetlands permits applied by the Corps of Engineers, which, unlike the City, is responsible for enforcing the Clean Water Act and other pertinent federal statutes or regulations.

RESPONSE 3-4: The Commentor states that the DEIR alternatives are not clearly described or illustrated and that the FEIR needs to more clearly describe Alternatives 3 and 4 and include figures and text. The Draft EIR fully defines and evaluates a reasonable range of alternatives (see Section 6.0, pages 6.0-1 through 6.0-82). The alternatives analysis discusses various land use allocations, numbers and configuration of dwelling units, size and configuration of open space/wetland preserves, and provides a comparative analysis of impacts for each alternative to the proposed project. Each alternative has a corresponding figure to illustrate the associated land uses (see Figures 6.0-1 through 6.0-4). Additionally, **Table 6.0-5** provides a full comparison of all technical issues associated with each alternative, compared to the proposed project, and identifies an environmentally superior alternative (see page 6.0-82). In short, the DEIR complies with all CEQA requirements relating to the analysis and discussion of project alternatives. No further response is required.

RESPONSE 3-5: The Commentor concludes that the DEIR is deficient in providing the public with information about the full impacts of moving Morrison Creek, discharging runoff

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

to real Morrison Creek or the “relocated Morrison Creek”, or building within its watershed without addressing the impacts of such hydromodification on the creek both within the project and downstream. The Commentor requests that an EIR/EIS be prepared to address the full impacts to the integrity of the watershed. While, it seems likely than an EIS will be required for the project, the U.S. Army Corps of Engineers (USACE) has not made a formal determination about requiring an EIS for the Preserve at Sunridge project. The project applicants have submitted an application to USACE for a permit under Section 404 of the Clean Water Act. However, it has not been found to be “complete” by USACE to date. The 404 process is a federal permitting process and not a local entitlement process, whereas an EIR is required for the City’s entitlement process. Rancho Cordova is required to prepare an EIR for the project because it was determined through the preparation of an initial study that the project would result in significant and unavoidable impacts. Additionally, CEQA Guidelines Section 15222 (Preparation of Joint Documents) states, *“If a Lead Agency finds that an EIS or Finding of No Significant Impact for a project would not be prepared by the federal agency by the time when the Lead Agency will need to consider an EIR or Negative Declaration, the Lead Agency should try [emphasis added] to prepare a combined EIR-EIS or Negative Declaration-Finding of No Significant Impact.”* The CEQA Guidelines say that a Lead Agency “should try” to prepare a joint document rather than using stronger words that would require a CEQA Lead Agency to work with a federal agency to prepare a joint document. The City started the CEQA process for the proposed project in September 2004 (when the first Notice of Preparation was released), which was prior to the applicants submitting a 404 permit application to USACE. The Commentor is referred to Response 3-3 for a discussion regarding the impacts of moving a tributary of Morrison Creek and the Master Response – Biological Resource Analysis for a further discussion associated with the realignment of Morrison Creek. No further response is required. (See also Response 2-7.)

Letter 4

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December 5, 2005

Hilary Anderson, Environmental Coordinator
City of Rancho Cordova Planning Department
3121 Gold Canal Drive
Rancho Cordova, CA 95670

**RE: DEIR of "The Preserve at Sunridge", #SCH2004092051
Comments of Friends of the Swainson's Hawk**

VIA FAX and e-mail

Dear Ms. Anderson,

The following comments are submitted on behalf of the Friends of the Swainson's Hawk, a nonprofit organization dedicated to the protection and recovery of the Swainson's Hawk, ("SWH"), listed as threatened under the California Endangered Species Act. My client must oppose this project due to inadequate mitigation for SWH and inaccurate assessment of impacts to SWH.

4-1

The DEIR, p. 4.9-13 incorrectly states that "the Swainson's Hawk nests primarily within riparian corridors in the San Joaquin Valley." In fact, the SWH nests primarily in Sacramento, Yolo, San Joaquin and Solano Counties, only one of which in the San Joaquin Valley. You may contact the California Department of Fish and Game for the latest information on known SWH nesting areas.

1. Area of SWH Foraging Habitat Lost is Understated, Area of Mitigation Land Is Inadequate and Fails to Comply With CEQA

The DEIR's assertion that mitigation of impacts to SWH will be mitigated to less than significant is not supported by substantial evidence.

4-2

The DEIR, p. 4.9-24 claims that the project will result in loss of 454.9 acres of SWH foraging habitat and preservation of 74.37 acres of SWH foraging habitat. The latter is not accurate. The 74.37 undeveloped acres is at the center of the much larger Sunrise-Douglas Community Plan, which will be entirely urbanized, as will the entire area west and north of the Sunrise Douglas Community Plan. DEIR p. 4.9-33 states that much of the surrounding habitat will be lost due to the Sunrise Douglas and Sunridge projects.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

What is the basis for the assumption that SWH would overfly the very large anticipated area of urban development to reach the 74.37-acre area open space area within the project? Please cite and provide scientific studies showing that SWH will behave in this manner. The DEIR provides absolutely no information supporting the assumption that SWH or other raptors would continue to use the open space area once it is surrounded with development. Scientific studies have shown that SWH require large areas of open fields to forage in their search for rodents, and that SWH will not use open areas which are surrounded with urban development or other incompatible use (such as rice fields.) I will submit literature on that subject.

Does DFG concur that the 74.37 acres open space area will retain its value as SWH foraging habitat after build-out of the Sunrise-Douglas Community Plan and other areas within the USB, as asserted by DEIR p. 4.9-24? If DFG does not concur with that assertion by the DEIR, then why does Rancho Cordova assert that the 74.37 acres will retain value as SWH foraging habitat after completion of development? (DEIR4.9-24.)

Did Rancho Cordova consult with DFG on the specific question of whether the 74.37-acre open space area retains its utility as SWH foraging habitat once surrounded by urban development? If Rancho did not consult with DFG on this specific issue, please explain why not. 4-2 cont.

If, as my client maintains, the 74.37-acre open space area will lose all value as SWH foraging habitat once surrounded by planned urban development which discourages approach by SWH, then why is City not including that area as loss of SWH foraging habitat attributable to the project? Because the 74.37-acre open space area is very unlikely to be used by SWH as a result of development of the project area surrounding the 74.37-acre open space area, the total loss of SWH habitat is actually 529 acres, instead of 454.9 acres.

Please explain why City believes that preservation of 341.8 acres of "similar" SWH foraging habitat within ten miles will compensate for loss of 539 acres of SWH foraging habitat lost due to the project. How will the mitigation land be enhanced so that it will have both its pre-existing habitat value plus habitat values equal to the habitat value of the habitat lost to development? What habitat benefit will be afforded to SWH on the mitigation land which the mitigation land does not already have before designation as official mitigation land?

2. Substantial Evidence Does Not Support The DEIR's Assertion That Preservation Of The 74.37-Acre Open Space Area Surrounded By Urban Development Will Partially Mitigate For Impacts On SWH.

See discussion, *supra*, regarding loss of habitat value of open fields surrounded by urban development.

3. Substantial Evidence Does Not Support The DEIR's Assertion That The Parcel Selected As Mitigation Land Under MM 4.9.1a Will Have Characteristics Suitable For SWH Foraging, Or That It Will Be Properly Managed For SWH Foraging. 4-3

The land designated for mitigation under MM 4.9.1a is not identified and unknown, so it cannot be known if it is suitable. The only criteria for selection of that mitigation land is "similar habitat within 10 miles of the project site", protected by a conservation easement or fee title

acceptable to City after consultation with DFG. There is no substantial evidence that acquisition land in compliance with these very minimal standards will mitigate for impacts to SWH.

There is plenty of land similar to the project site within 10 miles of the project, particularly to the east, where SWH are not present and do not forage. Dedicating a parcel of land as SWH foraging mitigation habitat will not cause SWH to use land which SWH have previously not used.

MM 4.9.1a requires DFG only to consult with DFG, after which City is free to disregard DFG's advice and to act contrary to DFG's advice. There is no showing that City has any expertise on suitability of land for SWH foraging.

There are no standards for how the mitigation land is to be managed in the future, nor even a requirement that it be managed for SWH habitat in perpetuity. There is no requirement for monitoring the land to assure that it is, in fact, managed in perpetuity for SWH foraging. The holder of the mitigation easement or title is not identified and need not be approved by DFG. There is no funding for perpetual monitoring and management of the mitigation land or easement, and no provision that any party will monitor the mitigation land to assure that it is managed for SWH foraging.

4-3 cont.

My clients respectfully refer City to the County's SWH Mitigation Ordinance, similar to that of Elk Grove, for an example of SWH mitigation measures that provide measures that offer at least some assurance of success. Aside from requiring a 1 to 1 mitigation ratio for all land developed within ten miles of a SWH nest, the County SWH Mitigation Ordinance also requires that the land to be preserved "shall be deemed suitable SWH foraging habitat by DFG", that applicant shall transfer said conservation easement or title to "the County, DFG, and a third party conservation organization acceptable to the County and DFG," and that the applicant shall also pay a fee sufficient to perpetually endow the cost monitoring and management needed to assuring that the mitigation land is managed for SWH mitigation in perpetuity

4. The Project Violates the California Endangered Species Act , §2081(b) Due To Failure To Mitigate For Impacts to SWH In Accordance With Fish and Game Code § 2081

The California Endangered Species Act, Fish & Game Code §§ 2080 and 2081, states that no party can "take" a threatened or endangered species without issuance, by CDFG, of an Incidental Take Permit which meets the criteria of §2081. Section 2081 requires that all impacts upon SWH of the project which causes the taking to be "fully mitigated" and that the applicant "ensure adequate funding." "Taking" includes destruction of SWH foraging habitat, because loss of foraging habitat can cause deaths of nesting SWH chicks due to starvation. Repeated reproductive failure due to nest starvation guarantees the decline and eventual demise of any bird population.

4-4

CDFG's reliance on CEQA mitigation was intended as a short-term stopgap measure for mitigation for projects approved prior to adoption of a Sacramento County HCP/NCCP. The latter is now long overdue and may never be completed, but this does not excuse non-compliance with §2081. For the reasons stated above, the SWH mitigation measures of the DEIR fail to

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meet §2081's requirement to "fully mitigate" and "ensure adequate funding" for necessary management and monitoring of SWH mitigation land. | 4-4 cont.

Very Truly Yours,

James P. Pachl

LETTER 4

JAMES P. PACHL, ESQ. LEGAL COUNSEL FOR FRIENDS OF THE SWAINSON'S HAWK

RESPONSE 4-1: The Commentor expresses opposition to the project due to what he regards as inadequate mitigation and an inaccurate assessment of potential impacts. The Commentor states that the DEIR incorrectly claims that the Swainson's hawk (SWH) nests are primarily within riparian corridors in the San Joaquin Valley. The Commentor notes that primary nesting also occurs in Sacramento, Yolo, and Solano counties. The Commentor is referred to Section 4.0 (Errata) of this Final EIR, which includes the recommended changes to reflect information as to the location of Swainson's hawk nests.

Response 4-2: The Commentor states that the area of SWH foraging habitat lost on the project site is understated and the area of mitigation land is inadequate and fails to comply with CEQA. The Commentor also states that the DEIR's determination of less than significant impacts to SWH is not supported by substantial evidence. The City acting as the Lead Agency on the project, consulted with the DFG (a responsible agency under CEQA) in development of mitigation measure **MM 4.9.1a** to reduce impacts to Swainsons Hawk to less than significant. The Department of Fish and Game (DFG) has determined that the loss of foraging habitat can be mitigated to a less than significant level through the preservation in perpetuity of suitable foraging habitat within 10 miles from the project site. The 10-mile distance is a criterion established by the DFG based on the flight radius from an active and foraging habitat. DFG considers ideal mitigation as agricultural lands of low growing row or field crops located within 10 miles of a project site and in close proximity to other protected areas. By requiring direct land preservation prior to the issuance of grading permits, implementation of **MM 4.9.1a** would ensure that the land protection occurs before the impact. Impacts to SWH were addressed in the SDCP/SRSP Final EIR, which identified a number of significant and potentially significant biological resource impacts. The Sacramento County Board of Supervisors determined the significant and unavoidable biological resource impacts resulting from the project were outweighed by overriding economic, social, and other considerations. The Board adopted CEQA Findings of Fact Statement of Overriding Considerations of the Board of Supervisors of Sacramento County for the Sunrise Douglas Community Plan/Sunridge Specific Plan Project on July 17, 2002. As indicated page 4.9-31 of the Draft EIR, mitigation measures **MM 4.9.1a** and **MM 4.9.1b** are based on previously adopted mitigation measures from the SDCP/SRSP and are applicable to the Preserve at Sunridge project. Mitigation measure **MM 4.9.1a**, which compensates for the loss of Swainson's hawk habitat, fulfills the City's legal obligation under State law and ensures the adequate preservation of the Swainson's hawk and related foraging habitat. **MM 4.9.1a** has also been modified slightly to ensure adequate mitigation of habitat value.

RESPONSE 4-3: The Commentor states that the suitability and management of mitigation land required under mitigation measure **MM 4.9.1a** is not supported by substantial evidence. The City does not agree that **MM 4.9.1a** is not supported by substantial evidence. The City, acting as the Lead Agency on the project, consulted with the DFG (a trustee agency under CEQA) in development of mitigation measure **MM 4.9.1a** to reduce impacts to Swainsons Hawk to less than

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significant. The Department of Fish and Game (DFG) has determined that the loss of foraging habitat can be mitigated to a less than significant level through the preservation in perpetuity of suitable foraging habitat. By requiring direct land preservation prior to the issuance of grading permits, implementation of mitigation measure **MM 4.9.1a** would ensure that the land protection occurs before the impact. In addition to consulting with DFG, the approach undertaken by the City was developed in collaboration with the development community and various environmental groups with the objective to develop a sustainable conservation model for the Swainson's hawk. The Commentor claims that the 74-acre onsite preserve won't function as foraging habitat for the Swainson's hawks. This is contrary to a recent action by the Department of Fish & Game to allow the Montelena preserve site (which is similar in size to the proposed onsite wetland preserve for this project) to qualify as Swainson's hawk foraging habitat. Additionally, Sacramento County and Elk Grove both require mitigation for the loss of 5 acres or more of land. This practice would appear to support a conclusion that small areas of land function as foraging habitat. Further, the proposed on-site preserve will not be isolated. It will be adjacent to the existing 485-acre Anatolia wetland preserve and other designated vernal pool preserves within the Sunrise Douglas Community Plan area. The reader is also referred to Response 4-2. Language added to MM 4.9.1a requiring regular City monitoring of the preserve site (s) will help guarantee proper establishment of mitigation lands. In addition, existing language requiring easements to be approved by the City assures that mitigation habitat will be monitored in perpetuity because the City will not approve any such easements without a third party beneficiary such as DFG.

RESPONSE 4-4: The Commentor claims that the project violates the California Endangered Species Act, Section 2081 due to failure to mitigate for impacts to SWH in accordance with Fish and Game Code, Section 2081. Additionally, the Commentor states that DEIR fails to fully mitigate and ensure adequate funding for the necessary management and monitoring of SWH mitigation land. For reasons discussed below, the City disagrees with these contentions.

The Commentor is referred to mitigation measure **MM 4.9.1a**, which requires the project applicant to be "responsible for the cost of the conservation easement" for Swainson's hawk foraging habitat. This mitigation measure has been revised to also require the project applicant to pay for the cost of management and monitoring. Mitigation measure **MM 4.9.1a** has been revised as follows:

"MM 4.9.1a Prior to the approval of grading and improvement plans or prior to any ground-disturbing activities, whichever occurs first, the project applicant shall preserve, to the satisfaction of the City, suitable Swainson's hawk foraging habitat to ensure 1:1 mitigation of habitat value for Swainson's hawk foraging habitat lost as a result of the project, as determined by the City in consultation with DFG and a qualified biologist. The 1:1 habitat value shall be based on Swainson's hawk nesting distribution and an assessment of habitat quality, availability, and use within the City's Planning Area. If specific data for Rancho Cordova's Swainson's hawk habitat is not available at the time this mitigation measures is being implemented, the mitigation ratio shall be consistent with the 1994

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California Department of Fish and Game Swainson's Hawk Guidelines included in the "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California." Such mitigation shall be accomplished through either the transfer of fee title or perpetual conservation easement. The mitigation land shall be located within the known foraging area and within Sacramento County. The City, in consultation with DFG, will determine the appropriateness of the mitigation land. Prior to approval of such mitigation, the City shall consult with DFG regarding the appropriateness of the proposed mitigation. If mitigation is accomplished through conservation easement, then such easement shall ensure the continued management of the land to maintain Swainson's hawk foraging values, including but not limited to ongoing agricultural uses and the maintenance of all existing water rights associated with the land. The conservation easement shall be recordable and shall prohibit any activity which substantially impairs or diminishes the lands capacity as suitable Swainson's hawk habitat. The project applicant shall transfer said Swainson's hawk mitigation land, through either conservation easement or fee title, to a third party, non-profit conservation organization (Conservation Operator), with the City and DFG named as third party beneficiaries. The Conservation Operator shall be a qualified conservation easement land manager that manages land as its primary function. Additionally, the Conservation Operator shall be a tax-exempt non-profit conservation organization meeting the criteria of Civil Code Section 815.3(a) and be selected or approved by the City, in consultation with DFG. The City, in consultation with DFG and the Conservation Operator, shall approve the content and form of the conservation easement. The City, DFG and Conservation Operator shall each have the power to enforce the terms of the conservation easement. The Conservation Operator shall monitor the easement in perpetuity to assure compliance with the terms of the easement. The project applicant shall pay to the City an endowment fee, in an amount determined by the City, in consultation with DFG and the Conservation Operator, which will produce sufficient interest in perpetuity to operate, maintain, manage, and enforce such conservation easement. The endowment funds shall either be submitted to the City to be distributed to an appropriate third party non-profit conservation agency, or they shall be submitted directly to the third party non-profit conservation agency in exchange for an agreement to manage and maintain the lands in perpetuity. The Conservation Operator shall not sell, lease, or transfer any interest of any conservation easement or mitigation land it acquires without prior written approval of the City and DFG. If the Conservation Operator ceases to exist, the duty to hold, administer, manage, maintain and enforce the interest shall be transferred to another entity acceptable to the City and DFG. The Rancho Cordova Planning Department shall ensure that mitigation habitat is properly established and is functioning as habitat by conducting

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~~regular monitoring of the mitigation site(s) for the first 10 years after establishment of the easement. The project applicant shall preserve 0.75 acre of similar Swainson's hawk foraging habitat for each acre lost, within a ten-mile radius of the subsequent project site. The current design therefore would require the permanent preservation of 341.18 acres of similar habitat within 10 miles of the project site. This land shall be protected through a fee title or conservation easement acceptable to the City after consultation with the California Department of Fish and Game. Additionally, the project applicant is responsible for the cost of the conservation easement of fee title. The preserved 74.37 acres on-site can be assumed to partially fulfill this requirement when the conservation easement for this area is established.~~

or

The project applicant may participate in a future City Swainson's Hawk Foraging Habitat Ordinance (once adopted) as an alternative to the measure above.

or

The project applicant may participate in a future HCP (once adopted) as an alternative to the above measures.

~~*Timing/Implementation: Prior to approval of improvement and construction plans.*~~

Timing/Implementation: Prior to approval of grading and improvement plans and construction plans prior to any ground-disturbing activity.

Enforcement/Monitoring: City of Rancho Cordova Planning Department."

These changes are reflected in Section 4.0 (Errata) of this EIR.

The Commentor also claims that the project will result in the "take" of Swainson's hawk under the California Endangered Species Act; however, the Commentor does not provide any evidence or legal authority to support this assertion. The definition of "take" under the California Endangered Species Act, Section 86 of the Fish and Game Code is to "hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture or kill." There are no trees or nests on the project site. Additionally, there has been no documentation that Swainson's hawks forage on the project site. It has been assumed that the project site is habitat based on its proximity to known nests. Therefore, it would be highly unlikely, if not impossible, for the proposed project to result in a "take" of this species. It is important to note that neither DFG nor any appellate court in a reported decision has interpreted the California Endangered Species Act (CESA) to treat the loss of Swainson's hawk foraging habitat as a "take" requiring an incidental take permit from DFG. Section 2081(b) requires mitigation when an incidental take permit is required for a species. As impacts to foraging habitat are not

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considered to constitute "take" under CESA (only nesting and designated critical habitat are regulated under CESA), Section 2081(b) is not applicable in this case. Because loss of foraging habitat is an adverse environmental effect, however, CEQA requires evaluation of this impact. To the extent that the Commentor believes that impacts to foraging habitat should require the issuance of an incidental take permit, such concerns should be directed to DFG, which has the statutory authority to issue all such permits. Nothing in the California Endangered Species Act (CESA) requires or permits cities or counties to issue such permits, or to attempt to persuade DFG to change its own view of what is necessary to comply with CESA.